

CHAPTER 96

ARTICLE 1

Solid Waste Policy; Specific Wastes

SECTION 44-96-10. Short title.

This chapter is known and may be cited as the "South Carolina Solid Waste Policy and Management Act of 1991".

HISTORY: 1991 Act No. 63, Section 1.

SECTION 44-96-20. Findings; purposes.

(A) The General Assembly finds that:

(1) Over three million eight hundred thousand tons of solid waste are generated in South Carolina each year.

(2) On the average, each South Carolinian currently produces approximately four and one-half pounds of solid waste each day.

(3) Unless steps are taken to reduce or recycle the amount of waste produced in this State, over five million tons of solid waste will be generated annually in South Carolina by the year 2000.

(4) Approximately eighty percent of the solid waste generated in South Carolina is landfilled.

(5) There are currently some seventy-nine permitted sanitary landfills in this State.
(6) Most of the permitted landfill capacity will be used within the next ten years. Twenty-three of forty-six counties have ten years or less of landfill space remaining.

(7) Siting of solid waste facilities is becoming increasingly difficult due to the opposition of local residents.

(8) The costs of solid waste management will increase significantly due to decreased landfill capacity and more stringent federal requirements for solid waste management facilities. More stringent federal and state requirements may also force a number of existing solid waste landfills to close.

(9) Insufficient and improper methods of managing solid waste can create hazards to public health, cause pollution of air and water resources, constitute a waste of natural resources, and create public nuisances.

(10) The economic growth and population growth of our State have required increased industrial production which, together with related commercial and agricultural operations to meet our needs, have resulted in increased amounts of discarded materials.

(11) The continuing technological progress and improvements in methods of manufacturing, packaging, and marketing of consumer products have resulted in an increasing amount of material discarded by the purchasers of these products, necessitating a statewide approach to assist local governments in improving solid waste management practices and to promote more efficient methods of solid waste management.

(12) The failure or inability to economically recover material and energy resources from solid waste results in the unnecessary waste and depletion of our natural resources, such that maximum resource recovery from solid waste and maximum recycling and reuse of these resources must be considered goals of the State.

(13) A coordinated statewide solid waste management program is needed to protect public health and safety, protect and preserve the quality of the environment, and conserve and recycle natural resources.

(14) The statewide solid waste management program should be implemented through the preparation of a state solid waste management plan and through the preparation by local governments of solid waste management plans consistent with the state plan and with this chapter.

(B) It is the purpose of this article to:

51 (1) protect the public health and safety, protect and preserve the environment of this State, and
52 recover resources which have the potential for further usefulness by providing for, in the most
53 environmentally safe, economically feasible and cost-effective manner, the storage, collection, transport,
54 separation, treatment, processing, recycling, and disposal of solid waste;

55 (2) establish and maintain a cooperative state program for providing planning assistance, technical
56 assistance, and financial assistance to local governments for solid waste management;

57 (3) require local governments to adequately plan for and provide efficient, environmentally
58 acceptable solid waste management services and programs;

59 (4) promote the establishment of resource recovery systems that preserve and enhance the quality of
60 air, water, and land resources;

61 (5) ensure that solid waste is transported, stored, treated, processed, and disposed of in a manner
62 adequate to protect human health, safety, and welfare and the environment;

63 (6) promote the reduction, recycling, reuse, and treatment of solid waste, and the recycling of
64 materials which would otherwise be disposed of as solid waste;

65 (7) encourage local governments to utilize all means reasonably available to promote efficient and
66 proper methods of managing solid waste, which may include contracting with private entities to provide
67 management services or operate management facilities on behalf of the local government, when it is cost
68 effective to do so;

69 (8) promote the education of the general public and the training of solid waste professionals to
70 reduce the generation of solid waste, to ensure proper disposal of solid waste, and to encourage recycling;

71 (9) encourage the development of waste reduction and recycling programs through planning
72 assistance, technical assistance, grants, and other incentives;

73 (10) encourage the development of the state's recycling industries by promoting the successful
74 development of markets for recycled items and by promoting the acceleration and advancement of the
75 technology used in manufacturing processes that use recycled items;

76 (11) establish a leadership role for the State in recycling efforts by requiring the General Assembly,
77 the Governor's Office, the Judiciary, and all state agencies to separate solid waste for recycling and by
78 granting a preference in state procurement policies to products with recycled content;

79 (12) require counties to develop and implement source separation, resource recovery, or recycling
80 programs, or all of the above, or enhance existing programs so that valuable materials may be returned to
81 productive use, energy and natural resources conserved, and the useful life of solid waste management
82 facilities extended;

83 (13) require local governments and state agencies to determine the full cost of providing storage,
84 collection, transport, separation, treatment, recycling, and disposal of solid waste in an environmentally
85 safe manner; and

86 (14) encourage local governments to pursue a regional approach to solid waste management.

87
88 HISTORY: 1991 Act No. 63, Section 1.

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90 **SECTION 44-96-30.** Applicability.

91 This chapter does not apply to hazardous waste regulated under the South Carolina Hazardous Waste
92 Management Act, to infectious waste regulated under the South Carolina Infectious Waste Management
93 Act, to radioactive waste regulated under the South Carolina Atomic Energy and Radiation Control Act,
94 to the Southeast Interstate Radioactive Waste Compact, or to refuse as defined and regulated pursuant to
95 the South Carolina Mining Act, including processed mineral waste, which will not have a significant
96 adverse impact on the environment.

97
98 HISTORY: 1991 Act No. 63, Section 1.

99
100 **SECTION 44-96-40.** Definitions.

101 As used in this chapter:

102 (1) "Beverage" means beer or malt beverages, mineral water, soda water, and similar carbonated soft
103 drinks in liquid form, and all other liquids intended for human consumption, except for liquids marketed
104 for and intended for consumption for medicinal purposes.

105 (2) "Beverage container" means the individual, separate, and sealed glass, aluminum or other metal,
106 or plastic bottle, can, jar, or carton containing beverage intended for human consumption.

107 (3) "Collection" means the act of picking up solid waste materials from homes, businesses,
108 governmental agencies, institutions, or industrial sites.

109 (4) "Compost" means the humus-like product of the process of composting ~~waste~~.

110 (5) "Composting facility" means any facility used to provide aerobic, thermophilic decomposition of
111 ~~the solid organic constituents of solid waste materials~~ to produce a stable, humus-like ~~material product~~.

112 (6) "Construction and demolition debris" means discarded solid wastes resulting from construction,
113 remodeling, repair and demolition of structures, road building, and land clearing. The wastes include, but
114 are not limited to, bricks, concrete, and other masonry materials, soil, rock, lumber, road spoils, paving
115 material, and tree and brush stumps, but does not include solid waste from agricultural or silvicultural
116 operations.

117 (7) "County solid waste management plan" means a solid waste management plan prepared,
118 approved, and submitted by a single county pursuant to Section 44-96-80.

119 (8) "Degradable", with respect to any material, means that the material, after being discarded, is
120 capable of decomposing to components other than heavy metals or other toxic substances after exposure
121 to bacteria, light, or outdoor elements.

122 (9) "Department" means the South Carolina Department of Health and Environmental Control.

123 (10) "Discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting,
124 emptying, or dumping of solid waste, including leachate, into or on any land or water.

125 (11) "Disposal" means the discharge, deposition, injection, dumping, spilling or placing of any solid
126 waste into or on any land or water, so that the substance or any constituent thereof may enter the
127 environment or be emitted into the air or discharged into any waters, including groundwater.

128 (*) "Director" means the Director of the South Carolina Department of Health and Environmental
129 Control.

130 (12) "Energy recovery" means the beneficial use, reuse, recycling, or reclamation of solid waste
131 through the use of the waste to recover energy therefrom.

132 (13) "Facility" means all contiguous land, structures, other appurtenances and improvements on the
133 land used for treating, storing, or disposing of solid waste. A facility may consist of several treatment,
134 storage, or disposal operational units, including, but not limited to, one or more landfills, surface
135 impoundments, or combination thereof.

136 (14) "For hire motor carrier" means a company operating a fleet of vehicles used exclusively in the
137 transportation of freight for compensation.

138 (15) "Generation" means the act or process of producing solid waste.

139 (16) "Groundwater" means water beneath the land surface in the saturated zone.

140 (17) "Hazardous waste" has the meaning provided in Section 44-56-20 of the South Carolina
141 Hazardous Waste Management Act.

142 (18) "Incineration" means the use of controlled flame combustion to thermally break down solid,
143 liquid, or gaseous combustible wastes, producing residue that contains little or no combustible materials.

144 (19) "Industrial waste" means solid waste that results from industrial processes including, but not
145 limited to, factories and treatment plants.

146 (20) "Infectious waste" has the meaning given in Section 44-93-20 of the South Carolina Infectious
147 Waste Management Act.

148 (21) "Land-clearing debris" means solid waste which is generated solely from land-clearing
149 activities, but does not include solid waste from agricultural or silvicultural operations.

150 (22) "Landfill" means a solid waste disposal facility or part of a facility where solid waste is placed
151 in or on land, and which is not a land treatment facility, a surface impoundment, or an injection well.

152 (23) "Lead-acid battery" means any battery that consists of lead and sulfuric acid, is used as a power
153 source, and has a capacity of six volts or more, except that this term shall not include a small sealed
154 lead-acid battery which means a lead-acid battery weighing twenty-five pounds or less, used in
155 non-vehicular, non-SLI (start lighting ignition) applications.

156 (24) "Lead-acid battery collection facility" means a facility authorized by the Department of Health
157 and Environmental Control to accept lead-acid batteries from the public for temporary storage prior to
158 recycling.

159 (25) "Local government" means a county, any municipality located wholly or partly within the
160 county, and any other political subdivision located wholly or partly within the county when such political
161 subdivision provides solid waste management services.

162 (26) "Materials Recovery Facility" means a solid waste management facility that provides for the
163 extraction from solid waste of recoverable materials, materials suitable for use as a fuel or soil
164 amendment, or any combination of such materials.

165 (27) "Motor oil" and "similar lubricants" mean the fraction of crude oil or synthetic oil that is
166 classified for use in the crankcase, transmission, gearbox, or differential of an internal combustion engine,
167 including automobiles, buses, trucks, lawn mowers and other household power equipment, industrial
168 machinery, and other mechanical devices that derive their power from internal combustion engines. The
169 terms include re-refined oil but do not include heavy greases and specialty industrial or machine oils, such
170 as spindle oils, cutting oils, steam cylinder oils, industrial oils, electrical insulating oils, or solvents which
171 are not sold at retail in this State.

172 (28) "Municipal solid waste landfill" means any sanitary landfill or landfill unit, publicly or privately
173 owned, that receives household waste. The landfill may also receive other types of solid waste, such as
174 commercial waste, nonhazardous sludge, and industrial solid waste.

175 (29) "Office" means the Office of Solid Waste Reduction and Recycling established within the
176 Department of Health and Environmental Control pursuant to Section 44-96-110.

177 (30) "Owner/operator" means the person who owns the land on which a solid waste management
178 facility is located or the person who is responsible for the overall operation of the facility, or both.

179 (31) "Person" means an individual, corporation, company, association, partnership, unit of local
180 government, state agency, federal agency, or other legal entity.

181 (32) "Plastic bottle" means a plastic container intended for single use, which has a neck that is
182 smaller than the body of the container, accepts a screw-type, snap cap, or other closure, and has a capacity
183 of sixteen fluid ounces or more, but less than five gallons.

184 (33) "Plastic container" means any container having a wall thickness of not less than one
185 one-hundredth of an inch used to contain beverages, foods, or nonfood products and composed of
186 synthetic polymeric materials.

187 (34) "Recovered materials" means those materials which have known use, reuse, or recycling
188 potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid
189 waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and
190 processing. At least seventy-five percent by weight of the materials received during the previous calendar
191 year must be used, reused, recycled, or transferred to a different site for use, reuse, or recycling in order to
192 qualify as a recovered material.

193 (35) "Recovered Materials Processing Facility" means a facility engaged solely in the recycling,
194 storage, processing, and resale or reuse of recovered materials. The term does not include a solid waste
195 processing facility; however, solid waste generated by a recovered material processing facility is subject
196 to all applicable laws and regulations relating to the solid waste. The term does not include facilities
197 which thermally treat solid waste principally for volume reduction or for reduction of contaminants.
198 Records must be kept documenting the amount by weight of materials that are received at the facility and
199 used, reused, or recycled or transferred to another site for use, reuse, or recycling. Records must also be
200 kept which clearly document the location of final disposition of the materials. Records must be made
available for inspection by department personnel upon request.

202 (36) "Recyclable material" means those materials which are capable of being recycled and which
203 would otherwise be processed or disposed of as solid waste.

204 (37) "Recycling" means any process by which materials which would otherwise become solid waste
205 are collected, separated, or processed and reused or returned to use in the form of raw materials or
206 products (including composting).

207 (38) "Region" means a group of counties in South Carolina which is planning to or has prepared,
208 approved, and submitted a regional solid waste management plan to the department pursuant to Section
209 44-96-80.

210 (39) "Regional solid waste management plan" means a solid waste management plan prepared,
211 approved, and submitted by a group of counties in South Carolina pursuant to Section 44-96-80.

212 (40) "Resource recovery" means the process of obtaining material or energy resources from solid
213 waste which no longer has any useful life in its present form and preparing the waste for recycling.

214 (41) "Resource recovery facility" means a combination of structures, machinery, or devices utilized
215 to separate, process, modify, convert, treat, or prepare collected solid waste so that component materials
216 or substances or recoverable resources may be used as a raw material or energy source.

217 (42) "Reuse" means the return of a commodity into the economic stream for use in the same kind of
218 application as before without change in its identity.

219 (43) "Rigid plastic container" means any formed or molded container, other than a bottle, intended
220 for single use, composed predominantly of plastic resin, and having a relatively inflexible finite shape or
221 form with a capacity of eight ounces or more, but less than five gallons.

222 (44) "Sanitary landfill" means a land disposal site employing an engineered method of disposing of
223 solid waste on land in a manner that minimizes environmental hazards and meets the design and operation
224 requirements of this chapter.

225 (45) "Secondary lead smelter" means a facility which produces metallic lead from various forms of
226 lead scrap, including used lead-acid batteries.

227 (46) "Solid waste" means any garbage, refuse, or sludge from a waste treatment facility, water supply
228 plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or
229 contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and
230 from community activities. This term does not include solid or dissolved material in domestic sewage,
231 recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges
232 which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as
233 amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or
234 by-product material as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this
235 definition are application of fertilizer and animal manure during normal agricultural operations or refuse
236 as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste,
237 which will not have a significant adverse impact on the environment. For the purposes of this chapter, this
238 term excludes steel slag that is a product of the electric arc furnace steelmaking process; provided, that
239 such steel slag is sold and distributed in the stream of commerce for consumption, use, or further
240 processing into another desired commodity and is managed as an item of commercial value in a controlled
241 manner and not as a discarded material or in a manner constituting disposal.

242 (47) "Solid waste disposal facility" means any solid waste management facility or part of a facility at
243 which solid waste is intentionally placed into or on any land or water and at which waste will remain after
244 closure.

245 (48) "Solid waste management" means the systematic control of the generation, collection, source
246 separation, storage, transportation, treatment, recovery, and disposal of solid waste.

247 (49) "Solid waste management facility" means any solid waste disposal area, volume reduction plant,
248 transfer station, or other facility, the purpose of which is the storage, collection, transportation, treatment,
249 utilization, processing, recycling, or disposal, or any combination thereof, of solid waste. The term does
250 not include a recovered materials processing facility or facilities which use or ship recovered materials,
251 except that portion of the facilities which is managing solid waste.

252 (50) "Solid Waste Management Grant Program" means the grant program established and
253 administered by the Office of Solid Waste Reduction and Recycling pursuant to Section 44-96-130.

254 (51) "Solid Waste Management Trust Fund" means the trust fund established within the Department
255 of Health and Environmental Control pursuant to Section 44-96-120.

256 (52) "Source reduction" means the reduction of solid waste before it enters the solid waste stream by
257 methods such as product redesign or reduced packaging.

258 (53) "Source separation" means the act or process of removing a particular type of recyclable
259 material from other waste at the point of generation or under control of the generator for the purposes of
260 collection, disposition, and recycling.

261 (54) "Specific wastes" means solid waste which requires separate management provisions, including
262 plastics, used oil, waste tires, lead-acid batteries, yard trash, compost, and white goods.

263 (55) "State solid waste management plan" means the plan which the Department of Health and
264 Environmental Control is required to submit to the General Assembly and to the Governor pursuant to
265 Section 44-96-60.

266 (56) "Storage" means the containment of solid waste, either on a temporary basis or for a period of
267 years, in such manner as not to constitute disposal of such solid waste; provided, however, that storage in
268 containers by persons of solid waste resulting from their own activities on their property, leased or rented
269 property, if the solid waste in such containers is collected at least once a week, shall not constitute
270 "storage" for purposes of this chapter. The term does not apply to containers provided by or under the
271 authority of a county for the collection and temporary storage of solid waste prior to disposal.

272 (57) "Surface water" means lakes, bays, sounds, ponds, impounding reservoirs, springs, rivers,
273 streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within territorial limits, and all other
274 bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private.

275 (58) "Tire" means the continuous solid or pneumatic rubber covering encircling the wheel of a motor
276 vehicle, trailer, or motorcycle as defined in Section 56-3-20(2), (4), and (13). It does not include an
277 industrial press-on tire, with a metal or solid compound rim, which may be retooled.

278 (59) "Tire retailing business" means the retail sale of tires in any quantity for any use or purpose by
279 the purchaser other than for resale.

280 (60) "Transport" means the movement of solid waste from the point of generation to any
281 intermediate point and finally to the point of ultimate processing, treatment, storage, or disposal.

282 (61) "Transporter" means a person engaged in the off-site transportation of solid waste by air, rail,
283 highway, or water.

284 (62) "Treatment" means any technique designed to change the physical, chemical, or biological
285 character or composition of any solid waste so as to render it safe for transport, amenable to storage,
286 recovery, or recycling, safe for disposal, or reduced in volume or concentration.

287 (63) "Used oil" means oil that has been refined from crude oil or synthetic oil and that has been used
288 and, as a result of that use, is contaminated by physical or chemical impurities.

289 (64) "Used oil collection center" means a facility which, in the course of business, accepts used oil
290 for subsequent disposal or recycling.

291 (65) "Used oil energy recovery facility" means a facility that burns more than six thousand gallons of
292 used oil annually for energy recovery.

293 (66) "Used oil recycling facility" means a facility that recycles more than six thousand gallons of
294 used oil annually.

295 (67) "Waste tire" means a tire that is no longer suitable for its original intended purpose because of
296 wear, damage, or defect.

297 (68)(a) "Waste tire collection facility" means a permitted facility used for the storage of waste tires
298 or processed tires before recycling, processing, or disposal.

299 (b) "Waste tire disposal facility" means a permitted facility where processed waste tires are placed
300 on the land in a manner which constitutes disposal.

301 (c) "Waste tire processing facility" means a permitted facility where equipment is used to cut,
302 shred, burn for volume reduction, or to otherwise alter whole waste tires. The term includes mobile waste
303 tire processing equipment.

304 (d) "Waste tire recycling facility" means a permitted facility where waste tires are used as a fuel
305 source or returned to use in the form of products or raw materials.

306 (69) "Waste tire hauler" means a person engaged in the picking up or transporting of waste tires for
307 the purpose of storage, processing, or disposal.

308 (70) "Waste tire site" means an establishment, site, or place of business, without a collector or
309 processor permit, that is maintained, operated, used, or allowed to be used for the disposal, storing, or
310 depositing of unprocessed used tires, but does not include a truck service facility which meets the
311 following requirements:

312 (a) all vehicles serviced are owned or leased by the owner or operator of the service facility;
313 (b) no more than two hundred waste tires are accumulated for a period of not more than thirty days
314 at a time;
315 (c) the facility does not accept any tires from sources other than its own; and
316 (d) all waste tires are stored under a covered structure.

317 (71) "Waste tire treatment site" means a permitted site used to produce or manufacture usable
318 materials, including fuel, from waste tires.

319 (72) "Waters of the State" means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells,
320 rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits,
321 and all other bodies of surface or underground water, natural or artificial, public or private, inland or
322 coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction.

323 (73) "White goods" include refrigerators, ranges, water heaters, freezers, dishwashers, trash
324 compactors, washers, dryers, air conditioners, and commercial large appliances.

325 (74) "Yard trash" means solid waste consisting solely of vegetative matter resulting from
326 landscaping maintenance.

327 HISTORY: 1991 Act No. 63, Section 1; 1992 Act No. 449, Part V Section 4; 1992 Act No. 450, Section
328 3; 2000 Act No. 405, Section 1; 2015 Act No. 36 (H.3575), Section 1, eff June 1, 2015.

329 Effect of Amendment

330 2015 Act No. 36, Section 1, in (46), added the last sentence, relating to steel slag.

331 **SECTION 44-96-50.** State solid waste management policy and goals.

332 (A) It is the policy of this State to promote appropriate methods of solid waste management prior to
333 utilizing the options of disposal in landfills, treatment or disposal by incineration or other treatment,
334 storage, or disposal methods, and to assist local government with solid waste management functions. In
335 furtherance of this state policy, it shall be preferable to reduce the production and generation of waste at
336 the source and to promote the reuse and recycling of materials rather than the treatment, storage, or
337 disposal of wastes by landfill disposal, incineration, or other management methods designed to handle
338 waste after it enters the waste stream.

339 It is the policy of this State that the methods of management of solid waste shall protect public health,
340 safety, and the environment by employing the best available technology which is economically feasible
341 for the control of pollution and the release of hazardous constituents into the environment. Such methods
342 shall be implemented in a manner to maximize the reduction of solid waste through source reduction,
343 reuse, and recycling.

344 (B) It is the policy of this State to encourage research by private entities, by state agencies, and by
345 state-supported educational institutions into the reduction of solid waste production and generation.

346 (C) It is the policy of this State to encourage a regional approach to solid waste management.

347 (D) It is the goal of this State to reduce, on a statewide per capita basis, the amount of municipal solid
348 waste being generated to 3.5 pounds per day not later than June 30, 2005.

351 (E) It is the goal of this State to recycle, on a statewide basis, at least thirty-five percent, calculated by
352 weight, of the municipal solid waste stream generated in this State no later than June 30, 2005.

353 (F) It is the goal of this State to continue setting new and revised solid waste recycling and waste
354 reduction goals after June 30, 2005. These goals must be established in a manner so as to attempt to
355 further reduce the flow of solid waste being disposed of in municipal solid waste landfills and solid waste
356 incinerators. Revised goals will be published in the Solid Waste Management Annual Report.

357 (G) It is the policy of this State that each county or region make every effort to meet, on an individual
358 basis, the state solid waste recycling and reduction goals ~~and that each county or region, and~~
359 ~~municipalities located therein, which meet this goal be financially rewarded by the State.~~

360 (H) For the purposes of Sections 44-96-50 and 44-96-60, "municipal solid waste" includes, but is not
361 limited to, wastes that are durable goods, nondurable goods, containers and packaging, food scraps, yard
362 trimmings, and miscellaneous inorganic wastes from residential, commercial, institutional, and industrial
363 sources including, but not limited to, appliances, automobile tires, old newspapers, clothing, disposable
364 tableware, office and classroom paper, wood pallets, and cafeteria wastes. "Municipal solid waste" does
365 not include solid wastes from other sources including, but not limited to, construction and demolition
366 debris, auto bodies, municipal sludges, combustion ash, and industrial process wastes that also might be
367 disposed of in municipal waste landfills or incinerators.

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369 HISTORY: 1991 Act No. 63, Section 1; 2000 Act No. 405, Sections 2, 3.
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371 **SECTION 44-96-60.** State solid waste management plan; revision of plan and annual report; State Solid
372 Waste Advisory Council.

373 (A) Not later than eighteen months after this chapter is effective, the department shall submit to the
374 Governor and to the General Assembly a state solid waste management plan. All regulations promulgated
375 by the department in accordance with this chapter are subject to the provisions of Chapter 23 of Title 1,
376 the Administrative Procedures Act. The plan shall, at a minimum, include:

377 (1) an inventory of the amounts and types of solid waste currently being disposed of at solid waste
378 disposal facilities in this State, both in the municipal solid waste stream and in the industrial solid waste
379 stream;

380 (2) an estimate of solid waste which will require disposal at solid waste disposal facilities in this
381 State projected for the twenty-year period following this chapter's effective date;

382 (3) an estimate of the current capacity in this State to manage solid waste, including an identification
383 of each solid waste management facility and a projection of its remaining useful life;

384 (4) an evaluation of current solid waste management practices, including without limitation waste
385 reduction, recycling, incineration, storage, processing, disposal, and export;

386 (5) an analysis of the types of solid waste facilities which will be needed to manage the state's solid
387 waste during the projected twenty-year period;

388 (6) a description of procedures by which the State may facilitate the siting, construction, and
389 operation of new facilities needed to manage the state's solid waste over the projected twenty-year period;

390 (7) an evaluation of existing local government solid waste management programs, including
391 recommendations, if necessary, on ways to improve such programs;

392 (8) a description of the means by which the State shall achieve its statewide solid waste recycling
393 and reduction goals; including recommendations on which categories of solid waste materials should be
394 recycled;

395 (9) procedures and requirements for meeting state goals for waste reduction and recycling, including
396 composting, and objectives for waste-to-energy implementation and sanitary landfilling;

397 (10) a description of existing state programs and recommendations for new programs or activities
398 that will be needed to assist local governments in meeting their responsibilities under this article, whether
399 by financial, technical, or other forms of aid;

400 (11) procedures by which local governments and regions may request assistance from the
401 department;

402 (12) procedures for encouraging and ensuring cooperative efforts in solid waste management by the
403 State, local governments, and private industry, including a description of the means by which the State
404 may encourage local governments to pursue a regional approach to solid waste management;

405 (13) minimum standards and procedures developed after consulting with local government officials
406 which must be met by a county or region in its solid waste management plan, including the procedures
407 which will be used to provide for input from private industry and from private citizens;

408 (14) a comprehensive analysis of the amounts and types of hazardous waste currently being disposed
409 of in municipal solid waste landfills and recommendations regarding more appropriate means of
410 managing such waste;

411 (15) a description of the public education programs to be developed in consultation with local
412 governments, other state agencies, and business and industry organizations to inform the public of solid
413 waste management practices in this State and the need for and the benefits of recycling, reduction, and
414 other methods of managing the solid waste generated in this State;

415 (16) a description of the program for the certification of operators at solid waste management
416 facilities;

417 (17) recommendations on whether to require that certain solid waste materials be made degradable
418 and, if so, which categories of materials; and

419 (18) a fiscal impact statement identifying the costs incurred by the department in preparing the state
420 solid waste management plan and which will be incurred in carrying out all of the department's duties and
421 responsibilities under this chapter, including the number of new employees which may be necessary, and
422 an estimate of the revenues which will be raised by the various fees authorized by this chapter.

423 (B) After submission of the state solid waste management plan, the department shall submit to the
424 Governor and to the General Assembly by March fifteenth of each year a comprehensive report on solid
425 waste management in this State for the previous year. The annual report shall, at a minimum, include:

426 (1) any revisions in the state solid waste management plan which the department determines are
427 necessary;

428 (2) a description and evaluation of the progress made in implementing the state solid waste
429 management plan;

430 (3) a description and evaluation of the progress made by local governments in implementing their
431 solid waste management plans;

432 (4) an inventory of the amounts and types of solid waste received, recycled, incinerated, or disposed
433 at solid waste disposal facilities during the previous year and the methods of recycling, incineration, or
434 disposal used including, but not limited to, paper, polystyrene, and beverage containers;

435 (5) a determination of the success of the State, each county or region, and municipality, if a program
436 is in existence in the municipality, in achieving the solid waste recycling and reduction goals established
437 in Section 44-96-50;

438 (6) recommendations to the Governor and to the General Assembly for improving the management
439 of solid waste in this State; and

440 (7) the number of lead-acid batteries recycled.

441 The department may establish procedures and promulgate regulations necessary to obtain recycling
442 data. These procedures may include, but are not limited to, registration of municipal solid waste recyclers
443 and requiring municipal solid waste recyclers to submit annual reports on the amounts, actual or
444 estimated, and types of materials recycled and the county, when available, in which the materials were
445 generated.

446 (C) Not later than six months after this chapter is effective, there shall be established a State Solid
447 Waste Advisory Council. The council shall consist of the following sixteen members:

448 (1) twelve members appointed by the Governor which shall include one member to represent
449 manufacturing interests; one member to represent the retail industry; two members to represent the solid
450 waste disposal industry; one member to represent existing private recycling industry; two members to
451 represent the general public; three members to represent county governments to be recommended by the
452 South Carolina Association of Counties, one shall represent a county with a population of 50,000 or less,

453 one shall represent a county with a population more than 50,000 and up to 100,000, and the final county
454 representative shall represent a county with a population over 100,000; and two members shall represent
455 municipalities to be recommended by the South Carolina Municipal Association. County, regional, and
456 municipal representatives who are elected officials shall serve ex officio;

- 457 (2) the consumer advocate or his designee;
458 (3) one member to represent the Department of Health and Environmental Control;
459 (4) the Secretary of Commerce or his designee; and
460 (5) one member to represent the Governor.

461 The members of the council in (1) above appointed after May 27, 1997, shall serve terms of four years
462 dating from May 27, 1997, except that the member representing manufacturing interests, one member
463 representing the solid waste disposal industry, the member representing existing private recycling
464 industry, one member representing the general public, the member representing a county with a
465 population of over one hundred thousand, and one municipal member must be appointed for a term of two
466 years dating from May 27, 1997, and subsequent appointment of these members must be for a term of
467 four years. No member appointed after May 27, 1997, may serve more than two terms. Members named
468 in (2), (3), (4), and (5) above shall serve co-terminus with their office or at the pleasure of the respective
469 appointing authority. No member appointed before May 27, 1997, shall serve past May 27, 2001.
470 Members shall promulgate regulations concerning meeting attendance. The council shall advise the
471 department on the preparation of the state solid waste management plan, on methods of implementing the
472 state plan on the preparation of the annual reports by the department on solid waste management and
473 provide technical expertise regarding solid waste management grants and planning. The council shall be
474 provided with drafts of the plan and reports and shall be given adequate opportunity to comment. The
475 council also shall be advised on a regular basis by the department regarding the grant applications which
476 have been accepted or denied under the Solid Waste Management Grant Program and on the status of the
477 Solid Waste Management Trust Fund.

478
479 HISTORY: 1991 Act No. 63, Section 1; 1993 Act No. 181, Section 1151; 1994 Act No. 361, Section 8;
480 1997 Act No. 131, Section 1; 2000 Act No. 405, Sections 4, 5 and 20.

481
482 **SECTION 44-96-80.** County or regional solid waste management plans; local government
483 responsibilities; local Solid Waste Advisory Councils.

484 (A) Not later than fifteen months after the date on which the department submits its state solid waste
485 management plan to the Governor and to the General Assembly, the governing body of each county, if the
486 county intends to submit a single county plan, or the governing bodies of the counties in a region, if two
487 or more counties intend to submit a regional plan, in cooperation with the local governments located in
488 the county or region, shall prepare a solid waste management plan for the area within that county or
489 region. Local governments within the county or region shall participate in the development of the county
490 or regional plan and are required to be a part of the plan. This plan must provide for public participation
491 and include, at a minimum, the following:

492 (1) an estimate of the amount of solid waste currently disposed of at solid waste disposal facilities
493 within that county or region and a projection of the amount of solid waste which will be disposed of at
494 solid waste disposal facilities during the twenty-year period following this chapter's effective date;

495 (2) an estimate of the current capacity within that county or region to manage solid waste, including
496 identification of each solid waste management facility and a projection of its useful life;

497 (3) an analysis of the existing and new solid waste facilities which will be needed to manage the
498 solid waste generated within that county or region during the projected twenty-year period;

499 (4) an estimate of the cost of implementing the solid waste management plan within that county or
500 region;

501 (5) an estimate of the revenue which each local government or region needs and intends to make
502 available to fund implementation of the solid waste management plan;

503 (6) an estimate of the cost of siting, constructing, and bringing into operation any new facilities
504 needed to manage solid waste within that county or region during the projected twenty-year period;

505 (7) a description and estimate of the sources and amount of revenues which can be made available
506 for the siting, construction, and operation of new solid waste management facilities;

507 (8) a description of resource recovery, or recycling program, or both, which shall be implemented in
508 each county or region which shall include, at a minimum, the following:

509 (a) the designation of a recycling coordinator;

510 (b) an identification of the categories of solid waste materials to be source separated, recovered,
511 recycled, or all of the above;

512 (c) an identification of the means by which such materials will be collected and marketed;

513 (d) a description of the incentives or penalties, or both, that will be used to ensure compliance with
514 the recycling program; and

515 (e) a description of the public education program which will be used to inform the public of the
516 need for and benefits of source separation, recovery, and recycling and of the requirements of the
517 recycling program.

518 A county or region may be exempted from the requirements of Section 44-96-80(A)(8) if it provides
519 sufficient justification to the department that the implementation of a source separation, resource
520 recovery, recycling program, or all of the above within that county or region is economically infeasible or
521 impracticable or that such program is unnecessary for the county or region to meet the waste recycling
522 and reduction goals established in Section 44-96-50; and

523 (9) a description of efforts, in addition to the recycling program, which will be undertaken within
524 that county or region to meet the solid waste reduction goal as established on a statewide basis in Section
525 44-96-50.

526 (B) Each county or region shall submit its solid waste management plan to the department for review.
527 The department shall have one hundred eighty days from the date on which a plan is submitted to review
528 the plan and provide comments to the submitting entity. At the end of the one hundred eighty-day review
529 period, the county or region shall begin implementation of its solid waste management plan. Such plan
530 must be implemented not later than one year after the end of the one hundred eighty-day review period.

531 (C) Each solid waste management plan submitted by a county or region shall be designed to achieve
532 within that county or region the same recycling and waste reduction goals established on a statewide basis
533 in Section 44-96-50. Nothing in this chapter, however, prohibits a county or region from setting higher
534 percentage goals for recycling and waste reduction in its solid waste management plan than the goals
535 established in Section 44-96-50. The department may reduce or modify the statewide goals as they apply
536 to a county or region to account for industrial growth or other good cause shown. However, reduction or
537 modification must not result in a failure to meet the recycling and reduction goals on a statewide basis as
538 established in Section 44-96-50.

539 (D) Each county or region submitting a solid waste management plan containing a source separation,
540 resource recovery, recycling programs, or all of the above to the department shall provide its residents
541 with the opportunity to recycle the categories of solid waste materials designated in the county or regional
542 solid waste management plan. The opportunity to recycle may include one or more of the following:

543 (1) curbside collection systems;

544 (2) drop-off centers;

545 (3) collection centers; or

546 (4) collection systems for multi-family residences.

547 (E) Each solid waste management plan submitted pursuant to this section shall be consistent with the
548 state solid waste management plan, with the provisions of this chapter, with all other applicable
549 provisions of state law, and with any regulation promulgated by the department for the protection of
550 public health and safety or for protection of the environment.

551 (F) Each county or region submitting a solid waste management plan to the department shall thereafter
552 submit an annual progress report to the department by a date to be determined by the department. The

553 annual report shall contain information as may be requested by the department but must contain, at a
554 minimum, the following:

555 (1) any revisions to the solid waste management plan previously submitted by the county or region;

556 (2) the amount of waste disposed of at municipal solid waste disposal facilities during the previous
557 year by type of waste;

558 (3) the percentage reduction each year in solid waste disposed of at municipal solid waste disposal
559 facilities;

560 (4) the amount, type, and percentage of materials that were recycled, if any, during the previous year;

561 (5) the percentage of the population participating in various types of source separation, recovery, or
562 recycling activities during the previous year; and

563 (6) a description of the source separation, recovery, or recycling activities or all of the above
564 activities attempted, if any, their success rates, the reasons for their success or failure, and a description of
565 such activities which are ongoing.

566 (G) Counties are strongly encouraged to pursue a regional approach to solid waste management.
567 Nothing in this chapter, however, shall be construed to require a county to participate in a regional plan or
568 to prohibit two or more counties within the State which are not contiguous from preparing, approving,
569 and submitting a regional solid waste management plan or one or more counties, including industrial
570 waste generators located therein, from contracting with an in-state solid waste ~~disposal~~-facility located
571 outside of the county or region. Not later than eighteen months after the date of enactment of this chapter,
572 each county shall notify the department in writing whether it intends to submit a single county solid waste
573 management plan or to participate in a regional plan.

574 (H) Local governments may enter into cooperative agreements with other local governments to provide
575 for the collection, separation, or recycling of solid waste at mutually agreed upon sites. Local
576 governments may expend funds received from any source to establish and maintain such regional
577 facilities and to provide for sharing the costs of establishing and maintaining such facilities in an equitable
578 manner.

579 (I) Each county or region shall ensure that all their local governments participate in the preparation and
580 implementation of the solid waste management plan, including the source separation, resource recovery,
581 or recycling program, or all of the above.

582 (J) The governing body of a county has the responsibility and authority to provide for the operation of
583 solid waste management facilities to meet the needs of all incorporated or unincorporated areas of the
584 county. Nothing in this chapter, however, prohibits a local government from continuing to operate or to
585 use an existing management facility, permitted on or before this chapter is effective, in accordance with
586 the provisions of the solid waste management plan submitted by the county or region within which the
587 local government is located. Notwithstanding any provision of law to the contrary, a county which does
588 not regulate the operation or closure of a solid waste management facility, or which has not obtained a
589 permit for that solid waste management facility, shall not be held liable for the operation, closure, and
590 postclosure of that solid waste management facility if it is owned and operated by a private entity under a
591 permit issued by the department. However, that inclusion in a county or regional plan shall not constitute
592 regulation by a county or region under this section.

593 (K) The governing body of a county is authorized to enact such ordinances as may be necessary to
594 carry out its responsibilities under this chapter; provided, however, that the governing body of a county
595 may not enact an ordinance inconsistent with the state solid waste management plan, with any provision
596 of this chapter, with any other applicable provision of state law, or with any regulation promulgated by
597 the department providing for the protection of public health and safety or for protection of the
598 environment.

599 (L) (Reserved)

600 (M) Not later than eighteen months after this chapter is effective, each operator of a municipal solid
601 waste disposal facility shall install scales conforming to requirements established by the department to
602 weigh and record all solid waste when it is received. The department shall promulgate regulations
603 exempting existing facilities which can demonstrate financial hardship and establishing a volume

604 equivalent for such facilities to use in estimating the weight of the solid waste which they receive. All
605 ~~solid waste disposal~~ facilities permitted or registered under the authority of this statute on or after this
606 ~~chapter is effective~~ shall install scales as required by regulation.

607 (N) Not later than one year after this chapter is effective, there shall be established a local Solid Waste
608 Advisory Council for each county or region intending to submit a solid waste management plan. The local
609 council shall advise the county or region on the preparation of the solid waste management plan and on
610 methods of implementing the plan. The local council shall be provided with all drafts of the plan and shall
611 be given sufficient opportunity to comment on the drafts. Each local council shall consist of not more than
612 fifteen members. The membership of each council shall be as follows:

613 (1) one-third of the membership of the council shall represent the county or member counties of a
614 region and shall be appointed by the governing body or bodies of the county or counties;

615 (2) one-third of the membership of the council shall represent the municipalities within the county or
616 region and shall be appointed by the governing body or bodies of the municipalities within the county or
617 region; and

618 (3) one-third of the membership of the council shall include a representative of the private solid
619 waste management industry and a representative of the private recycling or processing industry, if any,
620 operating within the county or region, and at least two members shall represent the general public and
621 have been active in public participation on environmental issues for the past five or more years. These
622 members shall be appointed by the county and municipal representatives serving on the council. Each
623 local council shall elect a chairman and vice-chairman from among its members. Members shall
624 promulgate regulations concerning meeting attendance. Each council shall, at a minimum, remain in
625 existence until the end of the one hundred eighty-day review period for the plans, but may remain in
626 existence for a longer period of time as determined by its appointing entities. The comments of a local
627 council on the final solid waste management plan shall be forwarded to the department when the final
628 plan is submitted.

629 (O) Any amendments to a county or regional solid waste management plan must be adopted and
630 implemented in the same manner as provided for in the ~~initial~~ plan.

631 (P) This chapter does not:

632 (1) authorize a local government to enter into agreements or to enact ordinances or resolutions
633 determining private rights with respect to recovered materials in solid waste separated for recycling use or
634 reuse at any time prior to pickup by or delivery to a local government or persons under contract with the
635 local government; or

636 (2) prohibit a generator of recovered materials from selling, conveying, or arranging for the
637 transportation of materials to a recycler for recycling nor prevent a recycling company or nonprofit entity
638 from collecting and transporting recovered materials from a buy-back center, drop box, or a generator of
639 recovered materials.

640

641 HISTORY: 1991 Act No. 63, Section 1; 2000 Act No. 405, Section 6.

642

643 SECTION 44-96-85. Solid Waste Emergency Fund.

644 (A) There shall be established, by the department, a Solid Waste Emergency Fund.

645 (1) Beginning the State fiscal year after the effective date of this Section, the department shall
646 transfer two and one-half percent of the funds remitted quarterly to the Solid Waste Trust Fund pursuant
647 to 44-96-160, 44-96-170, 44-96-180, and 44-96-200 to a special sub-fund designated as the Solid Waste
648 Emergency Fund.

649 (2) The department shall deposit quarterly payments into the Solid Waste Emergency Fund until the
650 unencumbered balance equals \$1,500,000.

651 (3) When expenditures from the account occur, the department shall, on a quarterly basis, transfer
652 funds in accordance with sub-section 44-96-85 (A)(1) until such time as the unencumbered balance of the
653 fund equals \$1,500,000.

654 (B) The monies in the Solid Waste Emergency Fund shall be expended by the department exclusively
655 at the discretion of the Director to address a substantial release or threat of substantial release into the
656 environment of any pollutant or other circumstance which may present an imminent and substantial
657 danger to human health and the environment from a solid waste regulated under this chapter. The Director
658 may authorize the department to take direct emergency actions, or enter into a contract to perform
659 emergency actions to protect human health and the environment at solid waste sites.

660 (C) This subsection does not apply to the release or discharge of a substance which is in compliance
661 with a permit, license, approval, special order, waiver or variance issued under this chapter or under
662 applicable federal statutes or regulations.

663 (D) The Solid Waste Emergency Fund shall not be used to perform routine actions at solid waste sites
664 such as operations, maintenance, monitoring, or remedial actions in which no imminent threat to human
665 health and the environment exists. The department shall take all reasonable efforts to compel a permittee
666 or other responsible party to address the threat before expending funds from the Solid Waste Trust Fund.

667 (E) The collection or expenditure of funds under this Section are separate from any activities by the
668 department or the federal environmental protection agency acting under the Comprehensive
669 Environmental Response, Compensation and Liability Act, 42 U.S. Code 9601, et seq.

670 (F) Action to recover costs. The attorney general or the department shall take all reasonable actions to
671 recover costs for expenditures made from the Solid Waste Emergency Fund. The department may seek
672 cost recovery from persons whose willful disregard of this statute, or regulations promulgated pursuant to
673 this statute, have resulted in the need for emergency action. Funds recovered shall be deposited into the
674 Solid Waste Emergency Fund.

675 (G) An authorized representative or employee of the department may enter at all times onto any site,
676 facility, property, and surrounding areas for the purpose of investigating and/or addressing emergency
677 situations. Notice to the owner or occupant is not required if immediate action is necessary and the delay
678 required to provide this notice may present an imminent and substantial hazard to human health, safety or
679 to the environment.

680 681 SECTION 44-96-90. Full cost disclosure.

682 (A) Not later than one year after this chapter is effective, the department shall promulgate regulations
683 establishing the method for local governments to use in calculating the full cost for solid waste
684 management within the service area of the local government which, at a minimum, shall include the
685 provisions of subsections (C), (D), and (E) of this section. The department shall comply with the
686 requirements of the South Carolina Administrative Procedures Act and notify local government officials
687 of the opportunity to provide input prior to issuing proposed regulations for comment under this article.

688 (B) Not later than one year after promulgation of the regulations provided in Section 44-96-80(A), and
689 annually thereafter, each local government shall determine its full cost for its solid waste management
690 services within its service area for the previous year. Each local government shall ~~publish annually a~~ ~~notice in a newspaper of general circulation in its service area~~ ~~provide a report to the department on or~~
691 ~~before October fifteen of each year~~, setting forth the full cost and the cost to residential and nonresidential
692 users, on an average or individual basis of its solid waste management services within its service area for
693 the previous year. In calculating the costs, local governments must include costs charged to them by
694 persons with whom they contract for solid waste management services.

695 (C) For local governments which provide collection, recycling, transfer station services, or all three
696 services, "full cost" shall, at a minimum, include an itemized accounting of:

697 (1) the cost of equipment, including, but not limited to, trucks, containers, compactors, parts, labor,
698 maintenance, depreciation, insurance, fuel and oil, and lubricants for equipment maintenance;

699 (2) the cost of overhead, including, but not limited to, supervision, payroll, land, office and building
700 costs, personnel and administrative costs of running the waste management program, and support costs
701 from other departments, government agencies, and outside consultants or firms;

702 (3) the cost of employee social security, worker's compensation, pension and health insurance
703 payments; and

705 (4) disposal cost and laboratory and testing costs.

706 (D) For local governments which provide disposal services, "full cost" shall, at a minimum, include an
707 itemized accounting of:

708 (1) the cost of land, disposal site preparation, permits and licenses, scales, buildings, site
709 maintenance and improvements;

710 (2) the cost of equipment, including operation and maintenance costs such as parts, depreciation,
711 insurance, fuel and oil, and lubricants;

712 (3) the cost of labor and overhead, including, but not limited to, supervision, payroll, office and
713 building costs, personnel and administrative costs of running the waste management program, and support
714 costs from, and studies provided by, other departments, government agencies, and outside consultants or
715 firms;

716 (4) the cost of employee social security, worker's compensation, pension and health insurance
717 payments; and

718 (5) disposal costs, leachate collection and treatment costs, site monitoring costs, including, but not
719 limited to, sampling, laboratory and testing costs, environmental compliance inspections, closure and
720 postclosure expenditures, and escrow, if required.

721 (E) For purposes of this section, "service area" means the area in which the local government provides,
722 directly or by contract, solid waste management services.

723 (F) A person operating under an agreement to collect or dispose of solid waste within the service area
724 of a local government or region shall assist and cooperate with the local government or region to make the
725 calculations or to establish a system to provide the information required under this section. However,
726 contracts entered into prior to the effective date of this chapter are exempt from the provisions of this
727 section.

728 HISTORY: 1991 Act No. 63, Section 1.

729 **SECTION 44-96-100.** Violations of certain regulations; issuance of order for compliance or civil action
730 for injunctive relief; willful violations; penalty; additional powers and duties of department.

731 (A) Whenever the department determines that a person is in violation of a regulation promulgated
732 pursuant to this article regarding Sections 44-96-160(X) (Used Oil), 44-96-170(H) (Waste Tires), or
733 44-96-190(A) (Yard trash, compost), the department may issue an order requiring the person to comply
734 with the regulation or the department may bring civil action for injunctive relief in the appropriate court
735 or the department may request that the Attorney General bring civil or criminal enforcement action under
736 this section. The department also may impose reasonable civil penalties not to exceed ten thousand
737 dollars, for each day of violation, for violations of the regulations promulgated pursuant to this article
738 regarding Sections 44-96-160(X), 44-96-170(H), or 44-96-190(A). ~~After exhaustion of administrative
739 remedies, a person against whom a civil penalty is invoked by the department may appeal the decision of
740 the department or board of the court of common pleas, pursuant to the Administrative Procedures Act.~~

741 (B) A person who ~~wilfully~~willfully violates a regulation promulgated pursuant to this article regarding
742 Sections 44-96-160(X), 44-96-170(H), or 44-96-190(A) is guilty of a misdemeanor and, upon conviction,
743 must be fined not more than ten thousand dollars for each day of violation or imprisoned for not more
744 than one year, or both. If the conviction is for a second or subsequent offense, the punishment must be a
745 fine not to exceed twenty-five thousand dollars for each day of violation or imprisonment not to exceed
746 two years, or both. The provisions of the subsection do not apply to officials and employees of a local
747 government owning or operating, or both, a municipal solid waste management facility or to officials and
748 employees of a region, comprised of local governments, owning or operating, or both, a regional
749 municipal solid waste management facility.

750 (C) Each day of noncompliance with an order issued pursuant to this section or noncompliance with a
751 permit, regulation, standard, order, or requirement established under Sections 44-96-160, 44-96-170, or
752 44-96-190 constitutes a separate offense.

753 (D) In addition to the other powers and duties set forth in this article, the department shall:

756 (1) establish such programs and promulgate such regulations as are necessary to implement the state
757 solid waste management plan;

758 (2) establish such programs and promulgate such regulations as are necessary to implement the
759 provisions of this article;

760 (3) provide to local governments, upon request, planning and technical assistance in preparing and
761 implementing their solid waste management plans;

762 (4) provide to state agencies, upon request, planning and technical assistance in carrying out their
763 responsibilities under this article;

764 (5) cooperate and coordinate with federal agencies in carrying out federal and state solid waste
765 management requirements, including seeking available federal grants and loans for solid waste
766 management plans and activities in this State;

767 (6) cooperate and coordinate with private organizations and with business and industry in
768 implementing the requirements of this article;

769 (7) encourage counties to pursue a regional approach to solid waste management within a common
770 geographical area;

771 (8) contract as needed with private entities or with state-supported educational institutions to carry
772 out the department's responsibilities under this article, and contract with private entities or with
773 state-owned educational institutions to conduct research on solid waste management technologies;

774 (9) receive appropriated funds and receive and administer grants or other funds or gifts from public
775 or private entities, including the state and the federal government, to carry out the requirements of this
776 article; and

777 (10) increase public awareness of solid waste management issues through appropriate statewide
778 educational programs on recycling, volume reduction, litter control, proper methods of managing solid
779 waste, and other related issues.

780
781 HISTORY: 1991 Act No. 63, Section 1; 1997 Act No. 131, Section 2.

782 783 SECTION 44-96-105. Promulgation of regulations.

784 All regulations promulgated by the department pursuant to this chapter must be in consultation with
785 officials representing local governments which own or operate municipal solid waste disposal facilities,
786 pursuant to the Administrative Procedures Act.

787
788 HISTORY: 1991 Act No. 63, Section 1.

789 790 SECTION 44-96-110. Establishment of the Office of Solid Waste Reduction and Recycling.

791 (A) Ninety days after this chapter is effective there shall be established within the department an Office
792 of Solid Waste Reduction and Recycling which shall promote and assist in the development of source
793 separation, recovery, source reduction, and recycling programs for local governments and for private
794 entities under a contractual agreement with local governments or state-supported institutions. The Office
795 of Solid Waste Reduction and Recycling shall be separate from, and shall not participate in, any of the
796 regulatory functions of the department with regard to solid waste management.

797 (B) The Office of Solid Waste Reduction and Recycling shall have the following duties and
798 responsibilities:

799 (1) receive funds for and disburse funds from the Solid Waste Management Trust Fund established in
800 Section 44-96-120;

801 (2) manage the Solid Waste Management Grant Program established in Section 44-96-130;

802 (3) promote and assist in the development of solid waste reduction, source separation, recycling,
803 household hazardous materials management programs, and resource recovery programs;

804 (4) maintain a directory of recycling and resource recovery systems in the State and provide
805 assistance in matching recovered materials with markets;

806 (5) provide for the education of the general public and the training of solid waste management
807 professionals to encourage recycling and solid waste reduction;

808 (6) develop descriptive literature to educate local governments on solid waste reduction and
809 recycling issues.

810 (C) The Office of Solid Waste Reduction and Recycling shall develop guidelines for the establishment
811 and implementation of recycling education grants to school districts and public and private schools to
812 establish waste reduction and recycling education programs. The office shall develop guidelines for the
813 establishment and implementation of recycling education grants to public and private colleges and
814 universities to establish waste reduction and recycling education programs and demonstration projects.
815 The office shall ~~notify the superintendent of each school district and each public and private school and~~
816 ~~public and private college and university~~provide notice on the department website of the existence of the
817 grant programs and provide information on how to apply for the program. Upon request of the school, the
818 office shall provide technical assistance. The office shall determine the number of grant projects that may
819 be feasibly initiated in a single calendar year. The office, in consultation with the Department of
820 Education, also shall develop and make available to public and private schools, upon request, curriculum
821 materials and resource guides for recycling awareness programs for instruction at the elementary, middle,
822 and high school levels.

823
824 HISTORY: 1991 Act No. 63, Section 1; 2000 Act No. 405, Section 7.

825
826 **SECTION 44-96-120.** Establishment of the Solid Waste Management Trust Fund; Waste Tire Grant
827 Trust Fund.

828 (A) There is established a Solid Waste Management Trust Fund to be administered by the Office of
829 Solid Waste Reduction and Recycling to fund:

830 (1) activities of the department to implement the provisions of this chapter;

831 (2) research by state-supported educational institutions or by private entities under contract with
832 state-supported educational institutions on solid waste management technologies;

833 (3) activities of the Recycling Market Development Advisory Council as specified under contract
834 between the department and the South Carolina Department of Commerce~~including its staff in the amount~~
835 ~~of one hundred thousand dollars from the Solid Waste Management Trust Fund for fiscal year 1994-95~~;

836 (4) demonstration projects or pilot programs to be conducted by local governments within their
837 jurisdictions, including local governments which contract with private entities to assist in conducting the
838 demonstration projects or pilot programs;

839 (5) grants to local governments to carry out their responsibilities under this article, pursuant to the
840 provisions of Section 44-96-130, including local governments which contract with private entities to
841 assist in carrying out their responsibilities under this article;

842 (6) grants to school districts and public and private schools to establish waste reduction and recycling
843 education programs;~~and~~

844 (7) grants to public and private colleges and universities to establish waste reduction and recycling
845 education programs and demonstration projects; and

846 (8) the Solid Waste Emergency Fund pursuant to the provisions of Section 44-96-85.

847 (B) The Solid Waste Management Trust Fund shall consist of:

848 (1) funds appropriated by the General Assembly;

849 (2) contributions and grants from public and private sources;

850 (3) ~~funds generated by the out-of-state disposal fee authorized pursuant to Section 44-96-80;~~

851 ~~(4)~~ the balance of the funds generated by the two-dollar fee imposed pursuant to Section
852 44-96-170(N), which is not remitted back to the counties for the management of waste tires; these funds
853 shall be remitted to a special fund designated as the Waste Tire Trust Fund;

854 ~~(5)~~ funds generated by the two-dollar fee for each lead-acid battery fee imposed pursuant to Section
855 44-96-180(F) for the management of lead-acid batteries;

856 (65) funds generated by the two-dollar fee for each white good fee imposed pursuant to Section
857 44-96-200(D) for the management of white goods;

858 (76) funds generated by fees imposed on motor oil and similar lubricants pursuant to Section
859 44-96-160(W);

860 (87) interest earnings accrued on the Solid Waste Management Trust Fund; and

861 (98) three million dollars of oil overcharge refund monies to be awarded to this fund by the
862 Governor, upon enactment of this chapter; in addition, the Office of Solid Waste Reduction and
863 Recycling will advise the Governor on solid waste project criteria contained within oil overcharge fund
864 competitive grant solicitations totaling one million dollars each over the next two years, to be used only
865 for local government grants and local government demonstration projects and pilot programs. The Office
866 of Solid Waste Reduction and Recycling and the Governor's Energy Office shall cooperate to develop the
867 necessary application information and other documentation to implement the requirements of this
868 appropriation.

869 (C) The department shall report on a quarterly basis to the State Solid Waste Advisory Council, House
870 Ways and Means Committee, Senate Finance Committee, and the Joint Legislative Committee on Energy
871 on the condition of the Solid Waste Management Trust Fund and on the use of all funds allocated from
872 the Solid Waste Management Trust Fund. Quarterly reports shall be made not later than sixty days after
873 the last day of each fiscal quarter beginning with the first full quarter after this chapter is effective.
874 Notwithstanding Chapter 39 of Title 11, the Department of Health and Environmental Control, through
875 the Office of Solid Waste Reduction and Recycling, shall make decisions on the allocation of oil
876 overcharge funds transferred to the Solid Waste Management Trust Fund pursuant to Section
877 44-96-120(B)(9). The department's decisions shall be made upon the approval of the statewide Solid
878 Waste Advisory Council and after consultation with the Governor's Office and the Joint Legislative
879 Committee on Energy to ensure that the funds are administered according to decisions of the federal
880 courts and requirements of the United States Department of Energy. If all oil overcharge funds transferred
881 to the Solid Waste Management Trust Fund are not committed for projects or programs authorized by this
882 chapter five years from the date this chapter is effective, they shall be returned to the Governor's Office.

883 (D) The electrical output from a resource recovery facility constructed in whole or in part with monies
884 from the Solid Waste Management Trust Fund shall be sold by competitive bids or requests for proposals,
885 wherein the contracts are awarded to the highest responsible and responsive bidder. If the highest bid does
886 not equal or exceed the avoided cost price which could be obtained under the Public Regulatory Policy
887 Act of 1978, said power will be disposed of pursuant to the Federal Act. For the purposes of this
888 subsection "responsible bidder" shall mean a corporation doing business in South Carolina who is an
889 electric supplier as defined in Section 58-27-610, an electric cooperative incorporated under Chapter 49
890 of Title 33, a South Carolina municipality owning retail distribution facilities on the effective date of this
891 chapter, or the South Carolina Public Service Authority.

892 (E) The revenue generated by the sale of electricity from a resource recovery facility funded in whole
893 or in part by a grant under this section which is in whole or in part owned by a municipality, county, or
894 consolidated political subdivision, must be used for reduction of the public cost for collection, separation,
895 and disposal of solid waste or environmental concerns related to disposal of solid waste, including
896 reasonable expenses of operation of the facility, or both. Revenue generated from the sale of electricity by
897 such resource recovery facility may not be commingled with other public funds.

898 HISTORY: 1991 Act No. 63, Section 1; 1993 Act No. 181, Section 1152; 1994 Act No. 497, Part II,
899 Section 124A, eff July 1, 1994; 2000 Act No. 405, Sections 8, 9.

900 Code Commissioner's Note

901 At the direction of the Code Commissioner, "44-96-170(N)" was substituted for "44-96-170(L)" in
902 paragraph (B)(4) and "44-96-160(W)" was substituted for "44-96-160(V)" in paragraph (B)(7).

903 Editor's Note

904 The out-of-state disposal fee referred to in paragraph (B)(3) was deleted by Act 405 of 2000.

905

906

SECTION 44-96-130. Solid Waste Management Grant Program.

(A) The Office of Solid Waste Reduction and Recycling shall establish a grant program utilizing funds within the Solid Waste Management Trust Fund to assist local governments and regions in carrying out their responsibilities under this article. Grant disbursements must be approved by the State Solid Waste Advisory Council.

(B) The department shall ensure that all grant funds made available to local governments and regions shall be utilized for activities necessary to carry out their solid waste management responsibilities established by this article. All grant funds made available to public and private schools and public and private colleges and universities must be used for waste reduction and recycling education programs. These grants must be made available as soon as possible following the promulgation by the department of regulations establishing the Solid Waste Management Grant Program. After the date on which county or regional solid waste management plans are required to be submitted to the department, no local government shall be eligible for a grant from the Solid Waste Management Grant Program unless it has submitted a solid waste management plan meeting the requirements of Section 44-96-80. All regional or local government grant proposals must be consistent with the State Solid Waste Management Plan and the county or regional solid waste management plan.

(C) Solid waste management grants must be made available to local governments and regions which have been determined by the department to be in need of assistance in carrying out their responsibilities established by this article. The department shall use information contained in the Solid Waste Management Annual Report to determine which responsibilities of the article have not been met and which local governments are in need of assistance. The requirements of this subsection supersede all rules, regulations, standards, orders, or other actions of the department that are not consistent with this subsection.

(D) Not later than twelve months after this chapter is effective, the Office of Solid Waste Reduction and Recycling shall promulgate regulations establishing the Solid Waste Management Grant Program. Such regulations, at a minimum, shall establish the criteria for counties, regions, and municipalities to qualify for grants, and shall set forth the procedures for applying for grants. The department may require such information of the entity applying for the grant as is necessary to properly evaluate the grant proposal. The department shall comply with the requirements of the South Carolina Administrative Procedures Act and notify local government officials of the opportunity to provide input before issuing proposed regulations for comment under this article.

(E) The regulations required to be promulgated by subsection (D) of this section must include procedures for any party aggrieved by a grant decision of the Office of Solid Waste Reduction and Recycling to obtain review of that decision.

HISTORY: 1991 Act No. 63, Section 1; 2000 Act No. 405, Section 10.

SECTION 44-96-140. Recycling programs of state government; state procurement policy; report of the Department of Transportation.

(A) Not later than twelve months after the date on which the department submits the state solid waste management plan to the Governor and to the General Assembly, the General Assembly, the Office of the Governor, the Judiciary, each state agency, and each state-supported institution of higher education shall:

(1) establish a source separation and recycling program in cooperation with the department and the Division of General Services of the Department of Administration for the collection of selected recyclable materials generated in state offices throughout the State including, but not limited to, high-grade office paper, corrugated paper, aluminum, glass, tires, composting materials, plastics, batteries, and used oil;

(2) provide procedures for collecting and storing recyclable materials, containers for storing materials, and contractual or other arrangements with collectors or buyers of the recyclable materials, or both;

956 (3) evaluate the amount of waste paper material recycled and make all necessary modifications to the
957 recycling program to ensure that all waste paper materials are recycled to the maximum extent feasible;
958 and

959 (4) establish and implement, in cooperation with the department and the Division of General
960 Services of the Department of Administration, a solid waste reduction program for materials used in the
961 course of agency operations. The program shall be designed and implemented to achieve the maximum
962 feasible reduction of solid waste generated as a result of agency operations.

963 (B) Not later than September fifteen of each year, each state agency and each state-supported institution
964 of higher learning shall submit to the department a report detailing its source separation and recycling
965 program and a review of all goods and products purchased during the previous fiscal year by those
966 agencies and institutions containing recycled materials using the content specifications established by the
967 Division of General Services, Department of Administration.

968 (C) By ~~November first~~March fifteenth of each year, the department shall submit a report to the
969 Governor and to the General Assembly reviewing all goods and products purchased by the State and
970 determining what percentage of state purchases contain recycled materials using content specifications
971 established by the Division of General Services, Department of Administration. The report also must
972 review existing procurement regulations for the purchase of products and materials and must identify any
973 portions of such regulations that discriminate against products and materials with recycled content and
974 products and materials which are recyclable.

975 (D) Not later than one year after this chapter is effective, the Division of General Services, Department
976 of Administration shall amend the procurement regulations to eliminate the portions of the regulations
977 identified in its report as discriminating against products and materials with recycled content and products
978 and materials which are recyclable.

979 (E) Not later than one year after the effective date of the amendments to the procurement regulations,
980 the General Assembly, the Office of the Governor, the Judiciary, all state agencies, all political
981 subdivisions using state funds to procure items, and all persons contracting with such agency or political
982 subdivision where such persons procure items with state funds shall procure products and materials with
983 recycled content and products and materials which are recyclable where practicable, as determined by the
984 Division of General Services, Department of Administration. The list of recycled content specifications
985 must be updated annually. It is the goal of the General Assembly for state and local governmental
986 agencies to reflect a twenty-five percent goal in their procurement policies. The decision not to procure
987 such items shall be based on a determination that such procurement items:

988 (1) are not available within a reasonable period of time;
989 (2) fail to meet the performance standards set forth in the applicable specifications; or
990 (3) are only available at a price that exceeds by more than seven and one-half percent the price of
991 alternative items.

992 (F) Not later than six months after this chapter is effective, and annually thereafter, the Department of
993 Transportation shall submit a report to the Governor and to the General Assembly on the use of:

994 (1) compost as a substitute for regular soil amendment products in all highway projects;
995 (2) solid waste including, but not limited to, ground rubber from tires and fly ash or mixtures of them
996 from coal-fired electrical facilities in road surfacing of subbase materials;
997 (3) solid waste including, but not limited to, glass aggregate, plastic, and fly ash in asphalt or
998 concrete; and
999 (4) recycled mixed-plastic materials for guardrail posts, right-of-way fence posts, and sign supports.

1000 HISTORY: 1991 Act No. 63, Section 1; 1993 Act No. 181, Section 1153; 2000 Act No. 405, Section 11;
1001 2014 Act No. 121 (S.22), Pt V, Section 7.DD, eff July 1, 2015.

1002 Effect of Amendment

1003 2014 Act No. 121, Section 7.DD, in subsection (A), substituted "Office of the Governor" for "Governor's
1004 Office"; in subsection (A)(1), substituted "Department of Administration" for "State Budget and Control
1005 Board"; in subsection (A)(4), substituted "Division of General Services of the Department of

1007 Administration" for "Division of General Services"; in subsection (B), substituted "Division of General
1008 Services, Department of Administration" for "Office of Materials Management"; in subsection (C), first
1009 sentence, added a comma after "each year", and substituted "Division of General Services, Department of
1010 Administration" for "Office of Materials Management, Division of General Services"; in subsection (D),
1011 substituted "General Services, Department of Administration" for "General Services"; in subsection (E),
1012 substituted "Office of the Governor" for "Governor's Office", and substituted "Division of General
1013 Services, Department of Administration" for "Office of Materials Management, Division of General
1014 Services".

1015

1016 **SECTION 44-96-150.** Packaging; plastics.

1017 (A) Six months after this chapter is effective, no beverage shall be sold or offered for sale within this
1018 State in a beverage container designed and constructed so that the container is opened by detaching a
1019 metal ring or tab.

1020 (B) On or after January 1, 1994, no person may distribute, sell, or offer for sale in this State any food or
1021 drink in packages or containers, including point of sale packaging, made with fully halogenated
1022 chlorofluorocarbons (CFC's). Producers or manufacturers of all types of containers, packaging, or packing
1023 material made from fully halogenated CFC's are strongly urged to introduce alternative containers,
1024 packages, and packing materials which are environmentally acceptable as soon as possible. Not later than
1025 three years after this chapter is effective, the department shall report to the Governor and to the General
1026 Assembly on the progress made in introducing such alternative containers, packages, and packing
1027 materials. Such report may include recommendations for legislative actions to encourage or require the
1028 development and use of such alternatives.

1029 (C) One year after this chapter is effective, no plastic bag shall be provided at any retail outlet to any
1030 retail customer for use in carrying items purchased by that customer unless the bag is composed of
1031 material which is recyclable.

1032 (D) One year after this chapter is effective, no plastic rings or any other device or material used to
1033 connect one container to another shall be provided at any retail outlet to any retail customer unless such
1034 rings or other device or material are degradable or recyclable. Producers of plastic ring carriers are
1035 strongly urged to introduce alternatives as soon as possible. Not later than three years after the date of
1036 enactment of this chapter, the department shall report to the Governor and to the General Assembly on the
1037 progress made in introducing such alternative packaging or materials. Such report may include
1038 recommendations for legislative actions to encourage or require the development and use of such
1039 alternatives.

1040 (E) One year after this chapter is effective, no person shall distribute, sell, or offer for sale in this State
1041 any polystyrene foam product for use in conjunction with food for human consumption unless such
1042 product is composed of material which is recyclable.

1043 (F) Not later than eighteen months after this chapter is effective, no person shall distribute, sell, or offer
1044 for sale in this State a plastic bottle or rigid plastic container unless such bottle or container is labeled
1045 with a code identifying the appropriate resin type used to produce the structure of the container. The code
1046 shall consist of a number placed within three triangulated arrows. The three arrows shall form an
1047 equilateral triangle with the common point of each line forming each angle of the triangle at the midpoint
1048 of each arrow and rounded with a short radius. The arrowhead of each arrow shall be at the midpoint of
1049 each side of the triangle with a short gap separating the arrowhead from the base of the adjacent arrow.
1050 The triangle formed by the three arrows curved at their midpoints shall depict a clockwise path around the
1051 code number. The label shall appear on or near the bottom of the plastic container product and be clearly
1052 visible. The numbers and letters shall be as follows:

- 1053 (1) for polyethylene terephthalate, the letters "PETE" and the number "1";
1054 (2) for high density polyethylene, the letters "HDPE" and the number "2";
1055 (3) for vinyl, the letter "V" and the number "3";
1056 (4) for low density polyethylene, the letters "LDPE" and the number "4";
1057 (5) for polypropylene, the letters "PP" and the number "5";

- 1058 (6) for polystyrene, the letters "PS" and the number "6"; and
1059 (7) for any other, the letters "OTHER" and the number "7".

1060 Nothing in this subsection may prevent a manufacturer or distributor of containers that are produced
1061 from a plastic resin not identified in this subsection from adopting a labeling code number and letter that
1062 will assist in the segregation and collection of that resin for recycling if the code number and letter used
1063 are nationally recognized industry standards.

1064 (G) Not later than five years after this chapter is effective, the department shall make a determination as
1065 to the number of beverage containers being sold annually in this State and the percentage of such
1066 containers that are being recycled or recovered by individual category of glass, aluminum, and plastic. If
1067 the department determines that one or more categories of beverage containers are being recycled at a rate
1068 of less than twenty-five percent, the department shall submit a report to the Governor and to the General
1069 Assembly making recommendations on incentives, penalties, or both, which may include the imposition
1070 of fees to increase the recycling rate of that category to a minimum of twenty-five percent within a
1071 reasonable period of time. Seven years after this chapter is effective, the department shall make a
1072 determination, by individual category of container, as to the percentage of such containers that are being
1073 recycled. If the department determines that one or more categories of beverage containers are being
1074 recycled at a rate of less than thirty-five percent, the department shall submit a report to the Governor and
1075 to the General Assembly making recommendations, which may include the imposition of appropriate
1076 fees, to increase the recycling rate of that category to at least thirty-five percent within a reasonable period
1077 of time. The department may, by regulation, establish a program to obtain and verify the information that
1078 is necessary to make the determinations and recommendations required by this subsection.

1079
1080 HISTORY: 1991 Act No. 63, Section 1; 2000 Act No. 405, Section 12.

1081
1082 **SECTION 44-96-160. Used oil.**

1083 (A) Twelve months after this chapter is effective, no person shall knowingly:
1084 (1) place used oil in municipal solid waste, discard or otherwise dispose of used oil, except by
1085 delivery to a used oil collection facility, used oil energy recovery facility, oil recycling facility, or to an
1086 authorized agent for delivery to a used oil collection facility, used oil energy recovery facility, or oil
1087 recycling facility;

1088 (2) dispose of used oil in a solid waste disposal facility unless such disposal is approved by the
1089 department;

1090 (3) collect, transport, store, recycle, use or dispose of used oil in any manner which may endanger
1091 public health and welfare or the environment;

1092 (4) discharge used oil into sewers, drainage systems, septic tanks, surface water or groundwater, or
1093 any other waters of this State, or onto the ground; or

1094 (5) mix or commingle used oil with hazardous substances that make it unsuitable for recycling or
1095 beneficial use.

1096 Notwithstanding any other provision of law, a person who knowingly disposes of any used oil which
1097 has not been properly segregated or separated from other solid wastes by the generator is guilty of a
1098 violation of this subsection and shall be subject to a fine not to exceed two hundred dollars. This
1099 provision may be enforced by a state, county, or municipal law enforcement official, or by the
1100 department.

1101 (B) No person shall knowingly dispose of used oil filters in a landfill unless the filter has been crushed
1102 to the smallest practical volume possible or unless the filter has been hot drained, as established by the
1103 department in regulations.

1104 (C) The utilization of used oil for road oiling, dust control, weed abatement, or other similar uses which
1105 has the potential to cause harm to the environment is prohibited.

1106 (D) The department shall encourage the voluntary establishment of used oil collection centers and
1107 recycling programs and provide technical assistance to persons who organize such programs.

If a hazardous substance is mixed with used oil accepted at a volunteer used oil collection center, any costs for the proper disposal of this contaminated waste will be incurred by the Petroleum Fund, if no more than five gallons of used oil was accepted from any one person at any one time.

(E) All government agencies and private businesses that change motor oil for the public and major retail dealers of motor and lubricating oil are encouraged to serve as used oil collection centers.

The Department of Transportation shall establish or contract for at least one used oil collection center in every county unless it can certify to the Office of Solid Waste Reduction and Recycling that a private used oil collection center is in operation in a county and is accepting up to five gallons of used oil from any member of the public.

A retail dealer of motor oil who maintains a separate tank for a voluntary used oil collection center as approved by the department under this section is eligible for a payment from the South Carolina Department of Revenue from fees collected pursuant to subsection (W) of five cents for every gallon of motor oil that is properly returned on a voluntary basis to a registered used oil transporter or permitted used oil recycling facility upon proper verification.

(F) A person who maintains a used oil collection facility that receives a volume of used oil annually, which exceeds a limit to be determined by the department, must register with the department.

(G) A used oil collection center must report annually to the department by a date to be determined by the department and must indicate if it is accepting used oil from the public, the quantities of used oil collected in the previous year, and the total quantity of used oil handled in the previous year.

(H) No person may recover from the owner or operator of a used oil collection center any costs of response actions resulting from a release of either used oil or a hazardous substance from a used oil collection center if such used oil is:

(1) not mixed with any hazardous substance by the owner or operator of the used oil collection center;

(2) not knowingly accepted with any hazardous substances contained in it;

(3) transported from the used oil collection center by a registered transporter; or

(4) stored in a used oil collection center that is in compliance with this section.

This subsection applies only to that portion of the used oil collection center utilized for the collection of used oil and does not apply if the owner or operator is grossly negligent in the operation of the public used oil collection center. Nothing in this section shall affect or modify in any way the obligations or liability of a person under any other provisions of state or federal law, including common law, for injury or damage resulting from the release of used oil or hazardous substances. For the purpose of this subsection, the owner or operator of a used oil collection center may presume that a quantity of no more than five gallons of used oil accepted from a member of the public is not mixed with a hazardous substance, if the owner or operator acts in good faith and in the belief the oil is generated from the individual's personal activity.

(I) Any motor, lubricating, or other oil offered for sale, at retail or at wholesale for direct retail sale, for use off the premises, must be clearly marked or labeled as containing a recyclable material which must be disposed of only at a used oil collection center. A statement on a container of lubricating or other oil offered for sale is in compliance with this section if it contains the following statement: "Don't pollute. Conserve resources. Return used oil to collection centers."

(J) Motor oil retailers shall post and maintain, at or near the point of sale, a durable and legible sign, not less than eleven inches by fifteen inches in size, informing the public of the importance of the proper collection and disposal of used oil and how and where used oil may be properly disposed.

(K) The department may inspect any place, building, or premises subject to subsections (I) and (J) and issue warnings and citations to a person who fails to comply with the requirements of those subsections. Failure to comply following a warning shall constitute a violation punishable by a fine not to exceed one hundred dollars per day. Each day on which an establishment fails to comply shall constitute a separate violation. The proceeds of a fine imposed pursuant to this subsection must be remitted to the Solid Waste Management Trust Fund.

1158 (L) The following persons shall register annually with the department pursuant to department
1159 regulations on forms prescribed in such regulations:

1160 (1) a person who transports over public highways more than five hundred gallons of used oil weekly;

1161 (2) a person who maintains a collection facility that receives more than six thousand gallons of used
1162 oil annually; and

1163 (3) a facility that recycles more than six hundred gallons of used oil annually.

1164 (M) The department shall require each registered person to submit by a date to be determined by the
1165 department an annual report which specifies the type and quantity of used oil transported, collected, and
1166 recycled during the preceding year. The department also shall require each registered person who
1167 transports or recycles used oil to maintain records which identify the:

1168 (1) source of the materials transported or recycled;

1169 (2) quantity of materials received;

1170 (3) date of receipt; and

1171 (4) destination or the end use of the materials.

1172 (N) The department shall require sample analyses of used oil at facilities of representative used oil
1173 transporters and at representative recycling facilities to determine the incidence of contamination of used
1174 oil with hazardous, toxic, or other harmful substances.

1175 (O) The following entities are exempted from the requirements of subsection (L):

1176 (1) an on-site burner which only burns a specification used oil generated by the burner, if the burning
1177 is done in compliance with any air permits issued by the department; or

1178 (2) an electric utility which generates during its operation used oil that is then reclaimed, recycled, or
1179 refined by the electric utility for use in its operations.

1180 (P) A person who fails to register with the department as required by subsection (L), or to file the
1181 annual report required by subsection (M), is subject to a fine not to exceed three hundred dollars per day.
1182 Each day on which the person fails to comply shall constitute a separate violation. The proceeds of a fine
1183 imposed pursuant to this subsection must be remitted to the Solid Waste Management Trust Fund.

1184 (Q) After the effective date of regulations promulgated by the department pursuant to this section, a
1185 person who transports over public highways more than five hundred gallons of used oil weekly must be a
1186 registered transporter.

1187 (R) The department shall promulgate regulations establishing a registration program for transporters of
1188 used oil and shall issue, deny, or revoke registrations authorizing the holder to transport used oil.
1189 Registration requirements must ensure that a used oil transporter is familiar with applicable regulations
1190 and used oil management procedures. The department shall promulgate regulations governing registration
1191 which must include requirements for the following:

1192 (1) registration and annual reporting;

1193 (2) evidence of familiarity with laws and regulations governing used oil transportation; and

1194 (3) proof of liability insurance or other means of financial responsibility for any liability which may
1195 be incurred in the transport of used oil.

1196 (S) Each person who intends to operate, modify, or close a used oil recycling facility shall obtain an
1197 operation or closure permit from the department before operating, modifying, or closing the facility.

1198 (T) Not later than eighteen months after this chapter is effective, the department shall develop a
1199 permitting system for used oil recycling facilities.

1200 (U) Permits must not be required under subsection (S) for the burning of used oil as a fuel, provided:

1201 (1) a valid air permit, if required, issued by the department is in effect for the facility;

1202 (2) the facility burns used oil in accordance with applicable state and local government regulations,
1203 and the requirements and conditions of its air permit; and

1204 (3) the on specification used oil is burned in industrial furnaces and boilers and nonindustrial
1205 furnaces and boilers.

1206 (V) No permit is required under this section for the use of used oil for the benefaction or flotation of
1207 phosphate rock.

1208 (W)(1) For sales made after October 31, 1991, a person making wholesale sales of motor oil or similar
1209 lubricants, and a person importing into this State ex-tax motor oil or similar lubricants, shall pay a fee on
1210 a monthly basis of eight cents for each gallon of motor oil or similar lubricants sold at wholesale or ex-tax
1211 motor oil or similar lubricants imported. As used in this provision, "ex-tax motor oil or similar lubricants"
1212 means motor oil or similar lubricants upon which the fee imposed has not been levied and which is not
1213 sold at wholesale in this State. The fee imposed must be imposed only once with respect to each gallon of
1214 motor oil or similar lubricants. The South Carolina State Department of Revenue shall administer, collect,
1215 and enforce this fee in the same manner the sales and use taxes are collected pursuant to Chapter 36 of
1216 Title 12. However, taxpayers are not required to make payments pursuant to Section 12-36-2600. Instead
1217 of the discount allowed pursuant to Section 12-36-2610, the taxpayer may retain three percent of the total
1218 fees collected as an administrative collection allowance. This allowance applies whether or not the return
1219 is timely filed.

1220 A motor carrier which purchases lubricating oils not for resale used in its fleet is exempt from the fee.
1221 The motor carrier must:

- 1222 (a) have a maintenance facility to service its own fleet and properly store waste oil for recycling
1223 collections;
- 1224 (b) have on file with the Environmental Protection Agency the existence of storage tanks for waste
1225 oil storage;
- 1226 (c) maintain records of the dispensing and servicing of lubrication oil in the fleet vehicles; and
- 1227 (d) have a written contractual agreement with an approved waste oil hauler.

1228 (2) The Department of Revenue shall remit fees collected pursuant to this section to the Solid Waste
1229 Management Trust Fund, less payments made pursuant to subsection (E). The fees must be reserved in a
1230 separate account designated as the Petroleum Fund. The Petroleum Fund must be under the administration
1231 of the Office of Solid Waste Reduction and Recycling.

1232 The funds generated by the fees authorized by this section and set aside for the Petroleum Fund must
1233 be used by the Office of Solid Waste Reduction and Recycling as follows:

1234 (a) ~~Two fifths of the funds must be used~~ to establish incentive programs to encourage:

1235 (1) individuals who change their own oil to return their used oil to used oil collection centers;

1236 (2) the establishment and continued operation of collection centers which accept used oil,
1237 including a one-time rebate to retailers who maintain department approved used oil collection centers for
1238 equipment used in the used oil collection process, not to exceed five hundred dollars a location. The used
1239 oil collection center must maintain a separate tank for the collection of voluntarily returned used oil to be
1240 eligible for this rebate. This rebate must be distributed by the department upon approval of the collection
1241 center by the department and submittal of proof of purchase of the equipment.

1242 (3) the establishment and continued operation of recycling facilities which prepare used oil for
1243 reuses or which utilize used oil in a manner that substitutes for a petroleum product made from new oil.

1244 (b) ~~Two fifths of the funds must be used~~ to provide grants for local government projects that the
1245 office determines will encourage the collection, reuse, and proper disposal of used oil and similar
1246 lubricants. Local government projects may include one or more of the following programs or activities:

1247 (1) curbside pickup of used oil containers by a local government or its designee;

1248 (2) retrofitting of solid waste equipment to promote curbside pickup or disposal of used oil at
1249 used oil collection centers designated by the local government;

1250 (3) establishment of publicly operated used oil collection centers at landfills or other public
1251 places; or

1252 (4) providing of containers and other materials and supplies that the public can utilize in an
1253 environmentally sound manner to store used oil for pickup or return to a used oil collection center.

1254 (c) ~~One fifth of the funds must be used~~ for public education and research including, but not
1255 limited to, reuses, disposal, and development of markets for used oil and similar lubricants; and

1256 (d) to implement provisions of this section to promote the recycling and proper management of
1257 used oil.

1258 The use of these funds shall be reviewed annually by the Solid Waste Advisory Council.

1259 The office may use funds set aside under subitem (a) of item (2) to contract for the development and
1260 implementation of incentive programs, and the office may use funds set aside under subitem (c) of item
1261 (2) to contract for the development and implementation of research and education programs.

1262 After the fee is imposed upon a distributor, the fee may not be imposed again upon a person who
1263 subsequently receives motor oil or similar lubricants from a distributor upon whom the fee already has
1264 been imposed.

1265 Motor oil or similar lubricants exported from this State in its original package or container must be
1266 exempt from the fee imposed in this section. A person purchasing motor oil or similar lubricants at
1267 wholesale in its original package or container and who exports such motor oil or similar lubricants from
1268 this State may certify in writing to the seller that the motor oil or similar lubricants will be exported, and
1269 such certification, if taken by the seller in good faith, will relieve the seller of the fee otherwise imposed.
1270 If the purchaser subsequently uses the motor oil or similar lubricants in this State, the purchaser shall be
1271 liable for the fee imposed and the purchaser's certification to the seller must include an acknowledgment
1272 to that effect.

1273 (X) The fee imposed under item (W) of this section must be imposed until the unobligated principal
1274 balance of the Petroleum Fund equals or exceeds three million dollars. Based upon the amount of revenue
1275 received and the time frame in which the amount is collected, the Department of Revenue is required to
1276 adjust the rate of the fee to reflect a full year's collection to produce the amount of revenue required in the
1277 fund. The increase or decrease in the fee made by the Department of Revenue must take effect for sales
1278 beginning on or after the first day of the third month following determination by the commission.

1279 (Y) The department shall promulgate regulations necessary to implement the provisions of this section.
1280 Such regulations may include the imposition of reasonable registration and permitting fees to assist in
1281 defraying the costs of the regulatory activities of the department required by this section.

1282 (Z) All state agencies, all political subdivisions using state funds to procure items, and all persons
1283 contracting with such agency or political subdivision where such persons procure items with state funds
1284 shall procure used oil materials and products where practicable, subject to the provisions of Section
1285 44-96-140(E).

1286 (AA) Beginning February 28, 1993, and no later than July first each year thereafter, the Office of Solid
1287 Waste and Recycling shall submit to the Governor and to the General Assembly a report for the previous
1288 calendar year, including:

1289 (1) the number of used oil collection sites available in each county to the general public;

1290 (2) the number and location of used oil collection sites in each county receiving ongoing and start-up
1291 assistance from the Office of Solid Waste Reduction and Recycling; and

1292 (3) the amount of used oil collected in each county.

1293
1294 HISTORY: 1991 Act No. 63, Section 1; 1992 Act No. 449, Part V, Sections 5-8; 1993 Act No. 181,
1295 Section 1154; 1995 Act No. 145, Part II, Section 50; 2000 Act No. 405, Section 13.

1296 1297 SECTION 44-96-165. Independent audits of trust funds.

1298 The Department of Health and Environmental Control, with the approval of the State Auditor, shall
1299 contract with one or more qualified, independent certified public accountants on a one-year basis to audit
1300 revenues and disbursements from the Solid Waste Management Trust Fund and the Waste Tire Trust
1301 Fund established pursuant to Section 44-96-120 and from the Petroleum Fund established pursuant to
1302 Section 44-96-160(V). The auditors may audit relevant records of a public or private entity that has
1303 submitted, kept, handled, or tracked monies for any of the three funds. This contract must be funded by
1304 the Solid Waste Management Trust Fund, the Petroleum Fund, and the Waste Tire Trust Fund.

1305
1306 HISTORY: 2000 Act No. 405, Section 21; 2005 Act No. 164, Section 22, eff June 10, 2005.

1307 Effect of Amendment

1308 The 2005 amendment in the first sentence substituted "with the approval of the State Auditor" for "in
1309 consultation with the State Auditor" and made nonsubstantive changes in the second sentence.

1310

SECTION 44-96-170. Waste tires.

1311 (A) Not later than ninety days after this chapter is effective, the owner or operator of a waste tire site
1312 shall notify the department of the site's location and size and the approximate number of waste tires that
1313 are accumulated at the site. However, this section does not apply to a manufacturer who disposes only of
1314 tires generated in the course of its scientific research and development activities, so long as the waste tires
1315 are buried on the facility's own land or that of its affiliates or subsidiaries and the disposal facility is in
1316 compliance with all applicable regulations.

1317 (B) Not later than six months after this chapter is effective, the department shall submit to the Governor
1318 and to the General Assembly a report on waste tire management and disposal in this State. The report
1319 shall, at a minimum, include the following:

1320 (1) the number of waste tires generated in this State and the geographical distribution of the waste
1321 tires;

1322 (2) the number and location of existing waste tire sites;

1323 (3) the location of existing waste tire collection sites;

1324 (4) the necessary financial responsibility requirements for sites, haulers, processors, collectors, and
1325 disposers of waste tires;

1326 (5) alternative methods of collecting waste tires;

1327 (6) current and future options for waste tire recycling;

1328 (7) methods to establish reliable sources of waste tires for waste tire users; and

1329 (8) types and location of facilities in this State that can utilize waste tires as a fuel source.

1330 (C) State and county solid waste management plans shall include a section on waste tires. The section
1331 on waste tires shall provide for public participation in its preparation and shall, as a minimum, include:

1332 (1) an estimate of the number of waste tires currently generated annually within that county or region
1333 and a projection of the number of waste tires to be generated during the twenty-year period following the
1334 date this chapter is effective;

1335 (2) an estimate of the current capacity in the county to manage waste tire disposal;

1336 (3) an estimate of the annual cost of implementing the approved waste tire disposal plan;

1337 (4) an estimate of the cost of siting, construction, and bringing into operation any new facilities
1338 needed to provide waste tire disposal;

1339 (5) the number of waste tires generated in each county and the geographical distribution of such
1340 waste tires;

1341 (6) the number and location of existing waste tire sites;

1342 (7) the location of existing waste tire collection sites;

1343 (8) alternative methods of collecting waste tires;

1344 (9) current and future options for waste tire recycling;

1345 (10) methods to establish reliable sources of waste tires for waste tire users; and

1346 (11) types and location of facilities in this county that can utilize waste tires as a fuel source.

1347 (D) Each county is required by the department to participate in ongoing waste tire clean-up
1348 enforcement efforts, and no later than twelve months after promulgation of regulations by the department,
1349 establish approved waste tire accumulation sites, designate waste tire processing, recycling, and disposal
1350 methods to be used, and begin disposal operations in compliance with the applicable regulations.

1351 Counties may contract with other counties and with private firms to implement the provisions of this
1352 chapter. The department shall administer waste tire management plans for those counties which do not
1353 submit proposals.

1354 (E) Counties are prohibited from imposing an additional fee on waste tires generated within the county.
1355 However, a county may impose an additional fee on waste tires, heavy equipment tires, and oversized
1356 tires that have a greater diameter than the largest tire with a Department of Transportation number. A fee
1357 may be charged on waste tires generated outside of South Carolina. Counties may require fleets to
1358 provide documentation for proof of purchase on in-state tires. For tires not included in documentation, an
1359 additional tipping fee may be charged. Counties may charge a tipping fee of up to one dollar and fifty
1360

1361 cents for each tire or up to one hundred fifty dollars a ton for waste tires generated in this State for which
1362 no fee has been paid otherwise.

1363 (F) Counties may charge a tipping fee of up to one dollar and fifty cents for each waste tire
1364 manufactured in this State or up to one hundred fifty dollars per ton for waste tires manufactured in this
1365 State for which no fee has been paid otherwise.

1366 (G) Not later than six months after the department promulgates regulations, a person, except as
1367 provided, shall not knowingly deposit whole waste tires in a landfill as a method of ultimate disposal.

1368 (H) Eighteen months after this chapter is effective, a person shall not:

1369 (1) maintain a waste tire collection site unless such site is an integral part of the person's permitted
1370 waste tire treatment facility or that person has entered into a contract with a permitted waste tire treatment
1371 facility for the disposal of waste tires;

1372 (2) knowingly dispose of waste tires in this State, unless the waste tires are disposed of at a permitted
1373 solid waste disposal facility; or

1374 (3) knowingly dispose of or discard waste tires on the property of another in a manner not prescribed
1375 by this chapter.

1376 For an interim period to be determined by the department, waste tires may be disposed of at a solid
1377 waste disposal facility, a waste tire recycling or processing facility, or a waste tire collection center
1378 seeking a permit from the department pursuant to this section. Notwithstanding any other provision of
1379 law, a person violating this subsection shall be subject to a fine not to exceed two hundred dollars. This
1380 provision may be enforced by a state, county, or municipal law enforcement official, or by the
1381 department. Each tire improperly disposed of must constitute a separate violation.

1382 (I) It is the policy of this State to recommend that waste tires be managed at a:

1383 (a) waste tire collection site which is an integral part of a permitted waste tire recycling or processing
1384 facility;

1385 (b) permitted waste tire recycling or processing facility; or

1386 (c) permitted waste tire collection center.

1387 (J) Not later than twelve months after this chapter is effective, the department shall promulgate
1388 regulations requiring all collectors, processors, recyclers, haulers, and disposers of waste tires to obtain a
1389 permit or registration issued by the department. The regulations must set forth the requirements for the
1390 issuance of such permits or registrations. After the effective date of the regulations, a person shall not
1391 collect, haul, recycle, or process waste tires unless that person has obtained a permit or registration from
1392 the department for that activity or, for an interim period to be determined by the department, is seeking a
1393 permit or registration from the department for that activity.

1394 (K) Subsection (J) does not apply to items (1) through (5) if these designated waste tire sites are
1395 maintained so as to prevent and control mosquitoes or other public health nuisances as determined by the
1396 department:

1397 (1) a tire retailing business where less than one thousand waste tires are kept on the business
1398 premises;

1399 (2) a tire retreading business where less than two thousand five hundred waste tires are kept on the
1400 business premises or a tire retreading facility that is owned or operated by a company that manufactures
1401 tires in this State or the tire manufacturer's parent company or its subsidiaries;

1402 (3) a business that, in the ordinary course of business, removes tires from motor vehicles if less than
1403 one thousand of these tires are kept on the business premises;

1404 (4) a permitted solid waste facility with less than two thousand five hundred waste tires temporarily
1405 stored on the business premises; or

1406 (5) a person using waste tires for agricultural purposes.

1407 (L) The department shall encourage the voluntary establishment of waste tire collection centers, waste
1408 tire treatment facilities, and solid waste disposal facilities to be open to the public for the deposit of waste
1409 tires.

1410 (M) The department is authorized to establish incentive programs to encourage individuals to return
1411 their used tires to waste tire recycling or processing facilities.

1412 (N) For sales made on or after November 1, 1991, there is imposed a fee of two dollars for each new
1413 tire sold with a Department of Transportation number to the ultimate consumer, whether or not the tire is
1414 mounted by the seller. The wholesaler or retailer receiving new tires from unlicensed wholesalers is
1415 responsible for paying the fee imposed by this subsection.

1416 The Department of Revenue shall administer, collect, and enforce the tire recycling fee in the same
1417 manner that the sales and use taxes are collected pursuant to Chapter 36 of Title 12. The fee imposed by
1418 this subsection must be remitted on a monthly basis. Instead of the discount allowed pursuant to Section
1419 12-36-2610, the taxpayer may retain three percent of the total fees collected as an administrative
1420 collection allowance. This allowance applies whether or not the return is timely filed.

1421 The department shall deposit all fees collected to the credit of the State Treasurer who shall establish a
1422 separate and distinct account from the state general fund.

1423 The State Treasurer shall distribute one and one-half dollars for each tire sold, less applicable credit,
1424 refund, and discount, to each county based upon the population in each county according to the most
1425 recent United States Census. The county shall use these funds for collection, processing, or recycling of
1426 waste tires generated within the State.

1427 The remaining portion of the tire recycling fee is to be credited to the Solid Waste Management Trust
1428 Fund by the State Treasurer for the Waste Tire Grant Trust Fund, established under the administration of
1429 the South Carolina Department of Health and Environmental Control.

1430 The General Assembly shall review the waste tire disposal recycling fee every five years.

1431 (O) A wholesaler or retailer required to submit a fee pursuant to subsection (N) who delivers or
1432 arranges delivery of waste tires to a permitted or approved waste tire recycling facility, or a permitted or
1433 approved waste tire processing facility which processes waste tires before recycling, may apply for a
1434 refund of one dollar for each tire delivered. If waste tires generated in this State, on which a fee has been
1435 paid, are delivered to a waste tire facility located outside this State, a wholesaler or retailer may apply for
1436 a refund of one dollar per tire delivered if the receiving facility is permitted or approved by the host state
1437 as a waste tire recycling facility or a waste tire processing facility which processes waste tires before
1438 recycling; in no case may a refund be approved for a number of tires delivered in excess of the number of
1439 new tires sold by the individual wholesaler or retailer. Verification must be provided as required by the
1440 South Carolina State Department of Revenue. All refunds made pursuant to this subsection must be
1441 charged against the appropriate county's distributions under subsection (N).

1442 (P) The Office of Solid Waste Reduction and Recycling of the Department of Health and
1443 Environmental Control may provide grants from the Waste Tire Trust Fund to counties which have
1444 exhausted all funds remitted to counties under Section 44-96-170(N), to regions applying on behalf of
1445 those counties and to local governments within those counties to assist in the following:

1446 (1) constructing, operating, or contracting with waste tire processing or recycling facilities;
1447 (2) removing or contracting for the removal of waste tires for processing or recycling;
1448 (3) performing or contracting for the performance of research designed to facilitate waste tire
1449 recycling; or

1450 (4) the purchase or use of recycled products or materials made from waste tires generated in this
1451 State.

1452 (Q) Waste tire grants must be awarded on the basis of written grant request proposals submitted to and
1453 approved, not less than annually, by the committee consisting of ten members appointed by the
1454 ~~commissioner~~director representing:

1455 (1) the South Carolina Tire Dealers and Retreaders Association;
1456 (2) the South Carolina Association of Counties;
1457 (3) the South Carolina Association of Regional Councils;
1458 (4) the South Carolina Department of Health and Environmental Control;
1459 (5) tire manufacturers;
1460 (6) the general public;
1461 (7) a public interest environmental organization;
1462 (8) the South Carolina Department of Natural Resources;

- 1463 (9) the Office of the Governor; and
1464 (10) the South Carolina Municipal Association.

1465 Members of the committee shall serve for terms of three years and until their successors are appointed
1466 and qualify.

1467 Vacancies must be filled in the manner of original appointment for the unexpired portion of the term.
1468 The representative of the department shall serve as chairman. The committee shall review grant requests
1469 and proposals and make recommendations on grant awards to the State Solid Waste Advisory Council.
1470 Grants must be awarded by the State Solid Waste Advisory Council.

1471 (R) Notwithstanding subsection (N), the department may use funds from the Waste Tire Trust Fund to
1472 fund activities of the department to implement provisions of this section to promote the recycling of waste
1473 tires and to encourage higher end uses of waste tires. The use of these funds must be reviewed annually
1474 by the Waste Tire Committee and the Solid Waste Advisory Council. The Recycling Market
1475 Development Advisory Council and the Solid Waste Advisory Council also may make recommendations
1476 to the office for use of these funds.

1477 (S) The department shall establish by regulation recordkeeping and reporting requirements for waste
1478 tire haulers and collection, processing, recycling, and disposal facilities.

1479 (T) A county failing to comply with the requirements of this section and regulations promulgated under
1480 it is not eligible for monies from the Waste Tire Trust Fund.

1481
1482 HISTORY: 1991 Act No. 63, Section 1; 1993 Act No. 181, Section 1155; 1993 Act No. 181, Section
1483 1156; 1998 Act No. 432, Section 17; 2000 Act No. 405, Section 14.

1484 1485 SECTION 44-96-180. Lead-acid batteries.

1486 (A) Twelve months after this chapter is effective, no person shall knowingly place a used lead-acid
1487 battery in mixed municipal solid waste, discard or otherwise dispose of a lead-acid battery, except by
1488 delivery to:

- 1489 (1) a lead-acid battery retailer or wholesaler;

1490 (2) a collection, recycling, or recovered material processing facility that is registered by the
1491 department to accept lead-acid batteries; or

- 1492 (3) a permitted secondary lead smelter.

1493 (B) Twelve months after this chapter is effective, no battery retailer shall knowingly dispose of a used
1494 lead-acid battery except by delivery to:

- 1495 (1) the agent of a lead-acid battery wholesaler or the agent of a permitted secondary lead smelter;

- 1496 (2) a vehicle battery manufacturer for delivery to a permitted secondary lead smelter;

1497 (3) a collection, recycling, or recovered material processing facility that is registered by the
1498 department to accept lead-acid batteries; or

- 1499 (4) a permitted secondary lead smelter.

1500 (C) Any person violating the provisions of subsections (A) or (B) shall be subject to a fine not to
1501 exceed two hundred dollars. This provision may be enforced by a state, county, or municipal law
1502 enforcement official or by the department. Each lead-acid battery improperly disposed of shall constitute
1503 a separate violation.

1504 (D) A person selling lead-acid batteries or offering lead-acid batteries for retail sale in this State shall:

- 1505 (1) accept, at the point of transfer, lead-acid batteries from customers; and

1506 (2) post written notice, visible to customers, at his place of business which must be at least eight and
1507 one-half inches by eleven inches in size and must contain the following language:

- 1508 (a) "It is illegal to put a motor vehicle battery in the garbage."

- 1509 (b) "Recycle your used batteries."

- 1510 (c) "State law requires us to accept motor vehicle batteries for recycling".

1511 (E) No person may recover from the owner or operator of a lead-acid battery collection center any costs
1512 of response actions resulting from a release of either a hazardous substance from lead-acid batteries,
1513 unless the owner or operator is grossly negligent in the operation of the public lead-acid battery collection

1514 center, or recovered materials processing facility. Nothing in this section shall affect or modify in any
1515 way the obligations or liability of any person under any other provisions of state or federal law, including
1516 common law, for injury or damage resulting from the release of hazardous substances.

1517 (F) For sales made on or after November 1, 1991, there is imposed a fee of two dollars per lead-acid
1518 battery sold to the ultimate consumer, whether the battery is installed by the seller or not. The retailer is to
1519 remit the fee to the Department of Revenue on a monthly basis. The Department of Revenue shall
1520 administer, collect, and enforce the lead-acid battery disposal fee in the same manner that the sales and
1521 use taxes are collected pursuant to Chapter 36 of Title 12. However, taxpayers are not required to make
1522 payments under Section 12-36-2600. In lieu of the discount allowed pursuant to Section 12-36-2610, the
1523 taxpayer may retain three percent of the total fees collected as an administrative collection allowance.
1524 This allowance applies whether or not the return is timely filed. The department shall deposit all fees
1525 collected to the credit of the State Treasurer. The State Treasurer is required to establish a separate and
1526 distinct account from the state general fund. The lead-acid battery disposal fee must be credited to the
1527 Solid Waste Management Trust Fund by the State Treasurer.

1528 (G) The lead-acid battery retailer must charge a five dollar refundable deposit for each battery sold for
1529 which a core is not returned to the retailer. The deposit must be returned to the consumer if a core is
1530 returned to the same retailer within thirty days.

1531 (H) The department shall produce, print, and distribute the notices required by subsection (D) to all
1532 lead-acid battery retailers.

1533 (I) Any person selling lead-acid batteries at wholesale or offering lead-acid batteries for sale at
1534 wholesale must accept, at the point of transfer, lead-acid batteries from customers.

1535 (J) Not later than eighteen months after this chapter is effective, the department shall promulgate
1536 regulations necessary to carry out the requirements of this section. Such regulations may include the
1537 imposition of reasonable fees to assist in defraying the costs of the regulatory activities of the department
1538 required by this section.

1539 (K) All state agencies, all political subdivisions using state funds to procure items, and all persons
1540 contracting with such agency or political subdivision where such persons procure items with state funds
1541 shall procure recycled lead-acid batteries where practicable, subject to the provisions of Section
1542 44-96-140(D).

1543 (L)(1) Within eighteen months after enactment of this subsection, the department shall conduct a study
1544 on the recycling and disposal of small sealed lead-acid batteries.

1545 (2) Within twelve months after completion of the study required in paragraph (1), the department
1546 must promulgate regulations regarding the proper management and disposal of small sealed lead-acid
1547 batteries. It shall be unlawful for any person to incinerate or place any small sealed lead-acid battery in a
1548 landfill.

1549

1550 HISTORY: 1991 Act No. 63, Section 1; 1992 Act No. 450, Section 4; 1992 Act No. 450, Section 5; 1993
1551 Act No. 181, Section 1157; 2000 Act No. 405, Section 15.

1552

1553 **SECTION 44-96-185.** Repealed by 2006 Act No. 296, Section 4, eff June 30, 2013.

1554 Editor's Note

1555 Former Section 44-96-185 was titled Automobile mercury switch removal; End-of-Life Vehicle Solutions
1556 (ELVS) Program; penalties and was derived from 2006 Act No. 296, Section 1, eff May 31, 2006.

1557

1558 **SECTION 44-96-190.** Yard trash; compost.

1559 (A) Not later than twelve months after this chapter is effective, the department shall:

1560 (1) promulgate regulations governing the proper management or disposal, or both, of yard trash and
1561 land-clearing debris;

1562 (2) promulgate regulations establishing standards for the production of compost, including
1563 requirements necessary to produce hygienically safe compost products for varying applications;~~and~~

1564 (3) comply with the requirements of the South Carolina Administrative Procedures Act and notify
1565 local government officials of the opportunity to provide input prior to issuing proposed regulations for
1566 comment under this article.

1567 (B) Twenty-four months after this chapter is effective, no person shall knowingly mix yard trash and
1568 land-clearing debris with other municipal solid waste that is intended for collection or disposal at a
1569 municipal solid waste landfill or a resource recovery facility.

1570 (C) Twenty-four months after this chapter is effective, no person shall knowingly mix other municipal
1571 solid waste with yard trash and land-clearing debris that is intended for collection and ~~disposal~~use at a
1572 composting facility. This prohibition does not apply to bags or other containers approved by the operator
1573 of the composting facility.

1574 (D) Twenty-four months after this chapter is effective, no owner or operator of a municipal solid waste
1575 landfill shall knowingly accept at the gate loads composed primarily of yard trash or land-clearing debris
1576 unless the landfill provides and maintains a separate waste composting facility and composts all yard
1577 trash or land-clearing debris before disposal in the landfill or contracts for the composting of such waste
1578 at the facility.

1579 (E) Any person violating the provisions of subsections (B) or (C) shall be subject to a fine not to
1580 exceed two hundred dollars. This provision may be enforced by a state, county, or municipal law
1581 enforcement official or by the department.

1582 (F) All state agencies, all political subdivisions using state funds to procure items, and all persons
1583 contracting with such agency or political subdivision where such persons procure items with state funds
1584 shall procure composted materials and products where practicable, subject to the provisions of Section
1585 44-96-140(D).

1586 HISTORY: 1991 Act No. 63, Section 1; 1992 Act No. 450, Section 6; 1997 Act No. 131, Section 6.

1589 SECTION 44-96-200. White goods.

1590 (A) Not later than eighteen months after this chapter is effective, the department shall promulgate
1591 regulations governing the proper management or disposal, or both, of white goods requiring a person
1592 selling or offering white goods for sale at retail in this State to post written notice at his place of business
1593 informing the purchaser of the proper method of disposal of used white goods. Persons dealing with the
1594 disposal of white goods are encouraged to reclaim freon from white goods containing freon before
1595 recycling or disposal.

1596 (B) Three years after this chapter is effective, no person shall knowingly include white goods with
1597 other municipal solid waste that is intended for collection or disposal at a municipal solid waste landfill.

1598 (C) Three years after this chapter is effective, no owner or operator of a municipal solid waste landfill
1599 shall knowingly accept white goods for disposal at such landfill.

1600 (D) Notwithstanding any other provision of law, any person violating the provisions of subsections (B)
1601 and (C) of this section shall be subject to a fine not to exceed two hundred dollars. This provision may be
1602 enforced by a state, county, or municipal law enforcement official, or by the department. Each white good
1603 improperly disposed of shall constitute a separate violation.

1604 (E) For sales made on or after November 1, 1991, there is imposed a fee of two dollars for each white
1605 good delivered by wholesalers to licensed retail merchants, jobbers, dealers, or other wholesalers for
1606 resale in this State. Retail merchants, jobbers, dealers, or other wholesalers receiving new white goods
1607 from unlicensed wholesalers shall be responsible for the fee imposed by this section. The wholesaler or
1608 retailer is to remit the fee to the Department of Revenue on a monthly basis. The Department of Revenue
1609 shall administer, collect, and enforce the white good disposal fee in the same manner that the sales and
1610 use taxes are collected pursuant to Chapter 36 of Title 12. However, taxpayers are not required to make
1611 payments under Section 12-36-2600. In lieu of the discount allowed pursuant to Section 12-36-2610, the
1612 taxpayer may retain three percent of the total fees collected as an administrative collection allowance.
1613 This allowance applies whether or not the return is timely filed. The department is required to deposit all
1614 fees collected to the credit of the State Treasurer. The State Treasurer is required to establish a separate

1615 and distinct account from the state general fund. The State Treasurer shall credit the white good disposal
1616 fee to the Solid Waste Management Trust Fund.

1618 HISTORY: 1991 Act No. 63, Section 1; 1993 Act No. 181, Section 1158.

1619

1620 **SECTION 44-96-210.** Newsprint.

1621 (A) Five years after this chapter is effective, the department shall make a determination as to whether
1622 newsprint sold within this State is being recycled at a rate of thirty-five percent or more of the quantity
1623 sold within the State. If the department determines that newsprint is being recycled at a rate of less than
1624 thirty-five percent, the department shall submit a report to the Governor and to the General Assembly
1625 making recommendations on incentives or penalties to increase the recycling percentage of newsprint to
1626 at least thirty-five percent within a reasonable period of time. The department may, by regulation,
1627 establish a program to obtain and verify the information necessary to make the determination and
1628 recommendations required by this section.

1629 (B) For the purposes of this section, "newsprint" means uncoated paper, whether supercalendered or
1630 machine finished, of the type generally used for, but not limited to, the publication of newspapers,
1631 directories, or commercial advertising mailers, which is primarily from mechanical woodpulps combined
1632 with some chemical woodpulp.

1633

1634 HISTORY: 1991 Act No. 63, Section 1.

1635

1636 **SECTION 44-96-220.** Uniform Department and Revenue collection and enforcement methods apply.

1637 The provisions of Chapter 54 of Title 12 apply to the administration, collection, and enforcement of the
1638 fees imposed by this chapter as administered by the Department of Revenue.

1640 HISTORY: 1991 Act No. 63, Section 1; 1993 Act No. 181, Section 1159.

1641

1642 **SECTION 44-96-235.** Severability.

1643 If any clause, sentence, paragraph, or part of this chapter or application thereof to any person or
1644 circumstance shall, for any reason, be judged by a court of competent jurisdiction to be invalid, such
1645 judgment shall not affect, impair, or invalidate the remainder of this chapter or its application to other
1646 persons or circumstances.

1647

1648 HISTORY: 1991 Act No. 63, Section 1.

1649

1650

1651 ARTICLE 2

1652 Solid Waste Management

1653 **SECTION 44-96-240.** Findings; purposes.

1654 (A) The General Assembly finds that:

1655 (1) South Carolina is generating increasingly large volumes of solid waste which may pose a threat
1656 to human health and safety and to the environment if not properly managed or if managed in facilities
1657 inadequately designed and operated to ensure protection of human health and safety and the environment.

1658 (2) Many communities are managing solid waste in existing facilities not designed and operated with
1659 technology and engineering controls that are adequately protective of the environment.

1660 (3) A number of new solid waste management facilities will have to be established in coming years
1661 to replace older facilities as they reach capacity or as they are required to close because they cannot meet
1662 new state or federal regulatory requirements.

1663 (4) It is the policy of the State of South Carolina to protect human health and safety and the
1664 environment from the effects of improper or inadequate solid waste management.

1665 (5) Legislation is needed to establish an adequate regulatory framework for the siting, design,
1666 construction, operation, and closure of solid waste management facilities in order to provide protection
1667 for human health and safety and for the environment.

1668 (6) A regional approach to the establishment of solid waste management facilities should be strongly
1669 encouraged in order to provide solid waste management services in the most efficient and cost-effective
1670 manner and to minimize any threat to human health and safety or to the environment.

1671 (B) It is the purpose of this article to:

1672 (1) regulate solid waste management facilities other than hazardous waste management facilities
1673 subject to the South Carolina Hazardous Waste Management Act, infectious waste management facilities
1674 subject to the South Carolina Infectious Waste Management Act, and radioactive waste facilities subject
1675 to the South Carolina Atomic Energy and Radiation Control Act and other federal and state laws; and

1676 (2) ensure that all solid waste management facilities in this State are sited, designed, constructed,
1677 operated, and closed in a manner that protects human health and safety and the environment.

1678
1679 HISTORY: 1991 Act No. 63, Section 1.

1680 1681 SECTION 44-96-250. Definitions.

1682 (A) The definitions set forth in Article 1 of this chapter are incorporated by reference in this article.

1683 (B) The following definitions are applicable in this article:

1684 (1) "Applicant" means an individual, corporation, partnership, business association, or government
1685 entity that applies for the issuance, transfer, or modification of a permit under this article.

1686 (2) "Ash" means the solid residue from the incineration of solid waste.

1687 (3) "Closure" means the discontinuance of operation by ceasing to accept, treat, store, or dispose of
1688 solid waste in a manner which minimizes the need for further maintenance and protects human health and
1689 the environment.

1690 ~~(4) "Director" means the Director of the South Carolina Department of Health and Environmental
1691 Control.~~

1692 (5) "Composite liner" means a liner which shall consist of a geomembrane placed over a natural or
1693 recompacted soil layer.

1694 (6) "Construction" means any physical modification to the site at which a potential or proposed solid
1695 waste management facility is to be located including, but not limited to, site preparation.

1696 (7) "Contingency plan" means a document acceptable to the department setting out an organized,
1697 planned, and coordinated course of action to be followed at or by the facility in case of a fire, explosion,
1698 or other incident that could threaten human health and safety or the environment.

1699 (8) "Cover" means soil or other suitable material acceptable to the department, or both, that is used to
1700 cover compacted solid waste in a land disposal site.

1701 (9) "Daily cover" means a compacted layer of at least six inches of soil or other cover material, in an
1702 amount approved by the department, that is placed on all exposed solid waste in a landfill at the end of
1703 each day of operation, except for recyclable materials properly located in a salvage area.

1704 (10) "Disclosure statement" means a sworn statement or affirmation, the form and content of which
1705 shall be determined by the department and as required by Section 44-96-300.

1706 (11) "Double geomembrane liner" means a liner which shall consist of the following layers from
1707 bottom to top:

- 1708 (a) a properly graded and prepared subbase;
- 1709 (b) a minimum 60 mil HDPE geomembrane secondary liner;
- 1710 (c) a secondary leachate collection system;
- 1711 (d) an approved bentonite mat or equivalent;
- 1712 (e) a geomembrane primary liner; and
- 1713 (f) a primary leachate collection system.

1714 (12) "Equity" means both legal and equitable interests.

1715 (13) "Financial responsibility mechanism" means a mechanism designed to demonstrate that
1716 sufficient funds will be available to meet specific environmental protection needs of solid waste
1717 management facilities. Available financial responsibility mechanisms include, but are not limited to,
1718 insurance, trust funds, surety bonds, letters of credit, personal bonds, certificates of deposit, financial
1719 tests, and corporate guarantees as determined by the department by regulation.

1720 (14) "Flood plain" means the lowland and relatively flat areas adjoining inland and coastal areas of
1721 the mainland and off-shore islands including, at a minimum, areas subject to a one percent or greater
1722 chance of flooding in any given year.

1723 (15) "Leachate" means the liquid that has percolated through or drained from solid waste or other
1724 man-emplaced materials and that contains soluble, partially soluble, or miscible components removed
1725 from such waste.

1726 (16) "Liner" means a continuous layer of natural or man-made materials, beneath or on the sides of a
1727 surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of solid
1728 waste, and constituents of such waste, or leachate.

1729 (17) "Monofill" means a landfill or landfill cell into which only one type of waste is placed.

1730 (18) "Municipal solid waste incinerator" means any solid waste incinerator, publicly or privately
1731 owned, that receives household waste. Such incinerator may receive other types of solid waste such as
1732 commercial or industrial solid waste.

1733 (19) "Permit" means the process by which the department can ensure cognizance of, as well as
1734 control over, the management of solid wastes.

1735 (**) "Residence" means an existing structure, all or part of which is designed or used for human
1736 habitation, that has received a final permit for electricity, permanent potable water supply, permanent
1737 sewage disposal, and a certificate of occupancy, if required by the local government.

1738 (20) "Responsible party" means:

1739 (a) any officer, corporation director, or senior management official of a corporation, partnership,
1740 or business association that is an applicant;

1741 (b) a management employee of a corporation, partnership, or business association that is an
1742 applicant who has overall responsibility for operations and financial management of the facility under
1743 consideration;

1744 (c) an individual, officer, corporation director, senior management official of a corporation,
1745 partnership, or business association under contract to the applicant to operate the facility under
1746 consideration; or

1747 (d) an individual, corporation, partnership, or business association that holds, directly or indirectly,
1748 at least five percent equity or debt interest in the applicant. If any holder of five percent or more of the
1749 equity or debt of the applicant is not a natural person, the term means any officer, corporation director, or
1750 senior management official of the equity or debt holder who is empowered to make discretionary
1751 decisions with respect to the operation and financial management of the facility under consideration.

1752 (21) "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a
1753 facility.

1754 (22) "Solid waste processing facility" means a combination of structures, machinery, or devices
1755 utilized to reduce or alter the volume, chemical, or physical characteristics of solid waste through
1756 processes, such as baling or shredding, prior to delivery of such waste to a recycling or resource recovery
1757 facility or to a solid waste treatment, storage, or disposal facility and excludes collection vehicles.

1758 (23) "Transfer station" means a combination of structures, machinery, or devices at a place or facility
1759 where solid waste is taken from collection vehicles and placed in other transportation units, with or
1760 without reduction of volume, for movement to another solid waste management facility.

1761 (24) "Vector" means a carrier that is capable of transmitting a pathogen from one organism to
1762 another including, but not limited to, flies and other insects, rodents, birds, and vermin.

1763 (25) "Vehicle" means any motor vehicle, water vessel, railroad car, airplane, or other means of
1764 transporting solid waste.

1766 HISTORY: 1991 Act No. 63, Section 1; 1993 Act No. 181, Section 1160.

1767

1768 **SECTION 44-96-260.** Powers and duties of the department.

1769 To carry out the purposes and provisions of this article, the department is authorized to:

1770 (1) promulgate such regulations, procedures, or standards as are necessary to protect human health
1771 and safety or the environment from the adverse effects of improper, inadequate, or unsound management
1772 of solid waste;

1773 (2) issue, deny, revoke, or modify permits, registrations, or orders under such conditions as the
1774 department may prescribe, pursuant to procedures consistent with the South Carolina Administrative
1775 Procedures Act, for the operation of solid waste management facilities;

1776 (3) establish, by regulation, and collect reasonable registration and permit fees to assist in defraying
1777 the costs of the department's solid waste regulatory programs;

1778 (4) conduct inspections, conduct investigations, obtain samples, and conduct research regarding the
1779 operation and maintenance of any solid waste management facility;

1780 (5) enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as
1781 the department determines appropriate, with other state, federal, or interstate agencies, counties,
1782 municipalities, educational institutions, other local governments, and local health departments, consistent
1783 with the purposes and provisions of this article;

1784 (6) receive financial and technical assistance from the federal government or private entities;

1785 (7) cooperate with private organizations and with business and industry in carrying out the
1786 provisions of this article;

1787 (8) establish qualifications for, and provide certification programs for, operators of landfills and
1788 other solid waste management facilities;

1789 (9) establish and carry out an appropriate statewide educational program to inform local governments
1790 and private entities of the requirements of this article; and

1791 (10) encourage counties and municipalities to pursue a regional approach to solid waste management
1792 within a common geographical area.

1793 HISTORY: 1991 Act No. 63, Section 1.

1794

1795 **SECTION 44-96-270.** Department report on regional solid waste management facilities.

1796 The department shall conduct a study and shall submit a report to the Governor and to the General
1797 Assembly not later than eighteen months after this chapter is effective on ways to encourage counties and
1798 municipalities to pursue a regional approach to solid waste management, including incentives to
1799 encourage the siting, construction, and operation of regional solid waste management facilities.

1800 HISTORY: 1991 Act No. 63, Section 1.

1801

1802 **SECTION 44-96-280.** Powers of the ~~commissioner~~director.

1803 The director, upon receipt of information that any aspect of solid waste management within any
1804 publicly or privately owned facility, may present an imminent and substantial hazard to human health or
1805 safety or to the environment, and may take necessary action to protect human health or safety or the
1806 environment which may include, but is not limited to, the following:

1807 (1) entering the ~~solid waste management~~ facility regulated pursuant to this chapter, in order to assess
1808 what actions may be necessary;

1809 (2) issuing or modifying an order directing the person responsible for facility operations to take
1810 appropriate action to prevent or eliminate the practice which is causing the hazard or a violation of any
1811 provision of this article or regulation promulgated pursuant to this article;

1812 (3) commencing an action to enjoin any act or practice that is causing the hazard; and

1813 (4) inspecting and obtaining samples from a person owning, operating, or supervising any ~~solid~~
1814 ~~waste management~~-facility regulated pursuant to this chapter. However, the department shall provide,

upon request, a sample of equal volume or weight to the person owning, operating, or supervising the facility. The department also shall provide such person with a copy of the results of the analysis of the samples after the results have been properly evaluated by the department to determine their validity.

HISTORY: 1991 Act No. 63, Section 1; 1993 Act No. 181, Section 1161.

Effect of Amendment

The 1993 amendment substituted "director" for "commissioner".

SECTION 44-96-290. Permitting.

(A) No person shall expand, construct, or operate a solid waste management facility without a permit or registration from the department. However, pursuant to a county or regional plan, any political subdivision of this State may hold a permit for a solid waste management facility as the owner of the facility and may contract for the operation, management, or both, of the facility. A separate permit shall be required for each site or facility although the department may include one or more different types of facilities in a single permit if the facilities are ~~ellocated~~co-located on the same site. The department may, by regulation, exempt certain facilities from all or part of the requirements of this section.

(B) No person shall initiate construction, expansion, modification, or closure of a solid waste management facility except in accordance with requirements established by the department pursuant to this article.

(C) Permits issued by the department to existing solid waste management facilities pursuant to statutory and regulatory requirements in effect before the date this article is effective remain valid for the life of the permit. However, a solid waste management facility without an approved closure plan is subject to the closure and postclosure requirements of this article applicable to that type of facility and to any other requirements made applicable specifically to existing solid waste management facilities by this article or by regulations promulgated pursuant to it. Upon expiration of the permit, the permittee shall comply with the requirements of this article and regulations promulgated pursuant to it.

(D) The department shall promulgate regulations for the permitting of solid waste management facilities which shall, at a minimum, address the following issues:

(1) contents of permit applications and application procedures;

(2) suspension, revocation, modification, issuance, denial, or renewal of a permit, including the criteria for taking such action and the procedures for taking such action consistent with the South Carolina Administrative Procedures Act;

(3) exemptions, variances, and emergency approvals;

(4) financial responsibility requirements sufficient to ensure the satisfactory maintenance, closure, and postclosure care of any solid waste management facility or to carry out any corrective action which may be required as a condition of a permit; provided, however, that consideration shall be given to mechanisms which would provide flexibility to the owner or operator in meeting its financial obligations. The owner or operator shall be allowed to use combined financial responsibility mechanisms for a single facility and shall be allowed to use combined financial responsibility mechanisms for multiple facilities, utilizing actuarially sound risk-spreading techniques. The department shall require the demonstration of financial responsibility prior to issuing a permit for any solid waste management facility. The department regulations regarding financial responsibility requirements shall not apply to any local government or region comprised of local governments which owns and operates a municipal solid waste management facility unless and until such time as federal regulations require such local governments and regions to demonstrate financial responsibility for such facilities;

(5) public notice and public hearing requirements consistent with the requirements of the South Carolina Administrative Procedures Act; and

(6) generally applicable operational requirements.

(E) No permit to construct a new solid waste management facility or to expand an existing solid waste management facility may be issued until a demonstration of need is approved by the department, as required by regulation. Facilities which lawfully burn nonhazardous waste for energy recovery up to the

1868 normal rate of manufacturing production or which lawfully use or reuse the waste to make a product shall
1869 not be excluded from the demonstration of need requirement. ~~No construction of new or expanded solid~~
1870 ~~waste management facilities may be commenced until all permits required for construction have been~~
1871 ~~issued.~~ In determining if there is a need for new or expanded solid waste disposal sites, the department
1872 shall not consider solid waste generated in jurisdictions not subject to the provisions of a county or
1873 regional solid waste management plan pursuant to this chapter.

1874 The department shall promulgate regulations to implement this section. These regulations must apply to
1875 all solid waste management facilities which have not obtained all permits required for construction. This
1876 subsection does not apply to inert or cellulosic solid waste facilities which are not commercial solid waste
1877 management facilities or to industrial facilities managing solid waste generated in the course of normal
1878 operations on property under the same ownership or control as the solid waste management facility if the
1879 industrial facility is not a commercial solid waste management facility.

1880 (F) No permit to construct a new solid waste management facility or to expand an existing solid waste
1881 management facility within a county or municipality may be issued by the department unless the
1882 proposed facility or expansion is consistent ~~with local zoning, land use, and other applicable local~~
1883 ~~ordinances, if any; the proposed facility or expansion is consistent~~ with the local or regional solid waste
1884 management plan and the state solid waste management plan; and the host jurisdiction and the jurisdiction
1885 generating solid waste destined for the proposed facility or expansion can demonstrate that they are
1886 actively involved in and have a strategy for meeting the statewide goal of waste reduction established in
1887 this chapter. Consistency determinations shall be made by the department in accordance with the solid
1888 waste management plans in effect on the date that the permit application to construct a new solid waste
1889 management facility or to expand an existing facility is received by the department. This subsection must
1890 not apply to industrial facilities managing solid waste generated in the course of normal operations on
1891 property under the same ownership or control as the waste management facility. However, the facilities
1892 shall be consistent with the applicable local zoning and land use ordinances, if any; and provided further,
1893 that the industrial facility is not a commercial solid waste management facility.

1894 (G) ~~[Redesignated as (F) See 2000 Effect of Amendment note]~~ A person requesting a permit to
1895 construct a new solid waste management facility or to expand an existing solid waste management facility
1896 regulated under authority of this chapter must provide, along with the permit application, documentation
1897 of compliance with local land use and zoning ordinances.

1898 (H) A permit issued pursuant to this article shall contain such conditions or requirements as are
1899 necessary to comply with the requirements of this article and the regulations of the department and to
1900 prevent a substantial hazard to human health or to the environment. Permits issued under this section shall
1901 be effective for the design and operational life of the facility, to be determined by the department, subject
1902 to the provisions of this article. However, at least once every five years, the department shall review the
1903 environmental compliance history of each permittee. The time period for review for each category of
1904 permits shall be established by the department by regulation. If, upon review, the department finds that
1905 material or substantial violations of the permit demonstrate the permittee's disregard for or inability to
1906 comply with applicable laws, regulations, or requirements and would make continuation of the permit not
1907 in the best interests of human health and safety or the environment, the department may, after a hearing,
1908 amend or revoke the permit, as appropriate and necessary. When a permit is reviewed, the department
1909 shall include additional limitations, standards, or conditions when the technical limitations, standards, or
1910 regulations on which the original permit was based have been changed by statute or amended by
1911 regulation.

1912 (I) The department may amend or attach conditions to a permit when:

1913 (1) there is a significant change in the manner and scope of operation which may require new or
1914 additional permit conditions or safeguards to protect human health and safety and the environment;

1915 (2) the investigation has shown the need for additional equipment, construction, procedures, and
1916 testing to ensure the protection of human health and safety and the environment; and

1917 (3) the amendment is necessary to meet changes in applicable regulatory requirements.

1918 (J) The department may issue permits for short-term structural fills pursuant to department regulations.
1919 These permits shall require that structural fills be closed and cover put in place within twelve months of
1920 issuance of the permit. The department shall also require that upon closure, the owner or operator submit
1921 evidence to the department that a survey plat has been recorded in the clerk's office or Register of Deeds
1922 Office, in the county in which the site is located, indicating the location and dimensions of landfill cells or
1923 other solid waste disposal units with respect to permanently surveyed benchmarks. Consistency with solid
1924 waste management plans pursuant to subsection (GF) is not required for the issuance of permits for
1925 short-term structural fills. For the purpose of this subsection, "cover" means soil or other suitable
1926 material, or both, acceptable to the department that is used to cover solid waste. For the purpose of this
1927 subsection, "structural fill" means landfilling for future beneficial use utilizing land-clearing debris,
1928 hardened concrete, hardened/cured asphalt, bricks, blocks, and other materials specified by the
1929 department by regulation, compacted and landfilled in a manner acceptable to the department, consistent
1930 with applicable engineering and construction standards and carried out as a part of normal activities
1931 associated with construction, demolition, and land-clearing operations; however, the materials utilized
1932 must not have been in direct contact with hazardous constituents, petroleum products, or painted with
1933 lead-based paint. Applicable department regulations in effect on the effective date of this act, not
1934 inconsistent with this subsection, remain in effect unless changed by statute or amended or repealed by
1935 the department pursuant to the Administrative Procedures Act, Article 1, Chapter 23, Title 1.

1936
1937 HISTORY: 1991 Act No. 63, Section 1; 1996 Act No. 454, Section 1; 2000 Act No. 405, Section 16.

1938 1939 SECTION 44-96-300. Disclosure statements by permit applicants.

1940 (A) The department may obtain a disclosure statement from the applicant at the same time that an
1941 application for a permit for operation of a ~~solid waste management~~ facility regulated pursuant to this
1942 chapter is filed, except that this section shall not apply if the applicant is a local government or a region
1943 comprised of local governments. The disclosure statement shall contain the following information with
1944 regard to the applicant and his responsible parties:

1945 (1) the full name, business address, and social security number of all responsible parties;

1946 (2) a description of the experience and credentials, including any past or present permits or licenses
1947 for the collection, transportation, treatment, storage, or disposal of solid waste, issued to or held by the
1948 applicant within the past five years;

1949 (3) a listing and explanation of all convictions by final judgment of a responsible party in a state or
1950 federal court, whether under appeal or not, of a crime of moral turpitude punishable by a fine of five
1951 thousand dollars or more or imprisonment for one year or more, or both, within five years immediately
1952 preceding the date of the submission of the permit application;

1953 (4) a listing and explanation of all convictions by final judgment of a responsible party in a state or
1954 federal court, whether under appeal or not, of a criminal or civil offense involving a violation of an
1955 environmental law punishable by a fine of five thousand dollars or more or imprisonment for one year or
1956 more, or both, in a state or federal court within five years of the date of submission of the permit
1957 application;

1958 (5) a listing and explanation of the instances in which a disposal facility permit held by the applicant
1959 was revoked by final judgment in a state or federal court, whether under appeal or not, within five years
1960 of the date of submission of the permit application; and

1961 (6) a listing and explanation of all adjudications of the applicant for having been in contempt of any
1962 valid court order enforcing any federal environmental law or any state environmental law relative to the
1963 activity for which the permit is being sought, within five years of the date of submission of the permit
1964 application.

1965 (B) The burden of proof with regard to any application shall lie with the applicant. The department
1966 shall deny a permit if it finds by a preponderance of the evidence that:

1967 (1) the applicant is not financially and technically qualified to carry out the activity for which the
1968 permit is sought;

1969 (2) the applicant has knowingly misrepresented or concealed any material fact in the permit
1970 application or disclosure statement, or in any other report or certification required under this article or
1971 under regulations promulgated pursuant to this article;

1972 (3) the applicant has obtained or attempted to obtain the permit by misrepresentation or fraud; or

1973 (4) the applicant has a documented and continuing history of criminal convictions or a documented
1974 history of violation of state or federal environmental laws such that the applicant's ability to operate
1975 within the law is questionable.

1976 (C) In making a determination of whether a preponderance of the evidence exists under subsection (B),
1977 the department shall consider:

1978 (1) the nature and details of the acts attributed to the applicant;

1979 (2) the degree of culpability of the applicant;

1980 (3) the applicant's policy or history of discipline, or both, of a responsible party convicted of acts
1981 described in subsection (A);

1982 (4) whether the applicant has substantially complied with this state's statutes, rules, regulations,
1983 permits, and orders applicable to the applicant in this State relative to the activity for which the permit is
1984 sought;

1985 (5) whether the applicant, if the applicant has no prior history within this State, has substantially
1986 complied with other jurisdictions' statutes, rules, regulations, permits, and orders applicable to the
1987 applicant relative to the activity for which the subject permit is sought;

1988 (6) whether the applicant has in place and observes formal management controls to minimize and
1989 prevent the occurrence of violations or other unlawful activities relative to the activity for which the
1990 subject permit is sought;

1991 (7) mitigation based upon any demonstration of good citizenship by the applicant including, without
1992 limitation, prompt payment of damages, cooperation with investigations, termination of employment or
1993 other relationship with responsible parties or other persons responsible for the activity described in
1994 subsection (A) or other demonstration of good citizenship by the applicant that the department finds
1995 acceptable; and

1996 (8) whether the best interests of the public will be served by denial of the permit.

1997 (D) The department may request specific information or a background investigation of an applicant by
1998 the State Law Enforcement Division or by the Attorney General. Such investigations shall be completed
1999 and the results provided to the department within ninety days of the department's request for the
2000 investigation.

2001 (E) In making a determination under this section, the department shall comply with the notice and
2002 public hearing requirements for administrative proceedings pursuant to the South Carolina Administrative
2003 Procedures Act and with public notice requirements for permit decisions required pursuant to this chapter.

2004 (F) ~~The department shall provide for an adjudicatory hearing if an aggrieved party with standing
2005 appeals the granting, denial, or granting with conditions of a permit by making a written request to the
2006 department for an adjudicatory hearing within fifteen days of receiving the notification required by this
2007 section.~~

2008 (G) If a responsible party of an applicant is a chartered lending institution or a publicly held
2009 corporation reporting under the Federal Securities and Exchange Act of 1934 or a wholly-owned
2010 subsidiary of a publicly held corporation reporting under the Federal Securities and Exchange Act of
2011 1934, such responsible party shall not be required to submit a disclosure statement in accordance with the
2012 provisions of subitems (1), (2), (3), (4), and (5) of subsection (A) of this section, excluding subitem
2013 (A)(6), but shall submit to the department reports covering its structure and operations required by the
2014 chartering body or the Federal Securities and Exchange Commission. The department is authorized to
2015 require a responsible party to provide such additional information to the department as is reasonably
2016 necessary to make the determinations provided for in this section.

2017 (H) Every applicant shall file a disclosure statement with the department together with the permit
2018 application or within sixty days of the adoption of the form and content of the disclosure statement by the
2019 department, whichever is later.

2020 (H) Every holder of a permit issued pursuant to this article who has not earlier filed a disclosure
2021 statement shall, not later than one year after this article is effective, file a disclosure statement with the
2022 department.

2023 (I) Not later than two years after this article is effective, every holder of a permit issued pursuant to
2024 this article shall update its disclosure statement not later than the end of January of each calendar year
2025 regarding any material changes in information in the permit holder's most recent disclosure statement on
2026 file with the department.

2027 ~~(K) If the department denies or revokes a permit based on this section or on Section 44-96-290(F), the
2028 applicant of the denied permit or the holder of the revoked permit may petition the department at any time
2029 for reconsideration of the denial or revocation. The department shall issue the denied permit or reinstate
2030 the revoked permit if the applicant of the denied permit or the holder of the revoked permit affirmatively
2031 demonstrates rehabilitation of the individual or business concern by a preponderance of the evidence. In
2032 determining whether subsequent issuance or reinstatement of a permit would be in the public interest, the
2033 department shall give consideration to any relevant factors including, but not limited to, the factors
2034 identified in subsection (C). The department may approve a conditional permit, not to exceed two years,
2035 to allow the applicant of the denied permit or the holder of the revoked permit a reasonable opportunity to
2036 continue to affirmatively demonstrate the applicant's rehabilitation.~~

2037
2038 HISTORY: 1991 Act No. 63, Section 1.
2039

2040 **SECTION 44-96-310.** Research, development, and demonstration permits.

2041 (A) The department may issue a research, development, and demonstration permit, or include research,
2042 development and demonstration conditions to another solid waste permit, for any solid waste management
2043 facility proposing to utilize an innovative and experimental solid waste management technology or
2044 process. The application for such permit must clearly demonstrate adequate protection of human health
2045 and safety and the environment and must be consistent with federal and state laws and regulations and
2046 this article. A permit or permit conditions issued under this section must be for a limited duration, not be
2047 for an activity of a continuing nature.

2048 (B) An application for a permit issued under this section must, at a minimum:

2049 (1) describe the proposed activity in detail;

2050 (2) describe how the permit applicant intends to provide for the management of solid waste in order
2051 to determine the efficiency and performance capabilities of the technology or process and the effects of
2052 such technology or process on human health and safety and the environment, and how the permit
2053 applicant intends to protect human health and safety and the environment in the conduct of the project;
2054 and

2055 (3) state that the permit applicant will share on a timely basis with the department any information
2056 obtained as a result of the activity undertaken under the permit.

2057 (C) Not later than eighteen months after this article is effective, the department shall promulgate the
2058 criteria and procedures for the issuance of such permits.

2059
2060 HISTORY: 1991 Act No. 63, Section 1.
2061

2062 **SECTION 44-96-320.** Solid waste landfills.

2063 (A) Not later than eighteen months after this article is effective, the department shall promulgate, in
2064 addition to regulations generally applicable to all solid waste management facilities, regulations
2065 governing the siting, design, construction, operation, closure, and postclosure activities of all landfills that
2066 dispose of solid waste. The department may, by regulation, exempt certain facilities from all or part of the
2067 requirements of this section. In determining if exemptions are warranted from all or part of the regulations
2068 applicable to this section and Section 44-96-330, the department must consider in situ soil as a criterion
2069 for granting exemptions. The department shall exempt a landfill for the disposal of trees, stumps, wood
2070 chips, and yard waste when generation and disposal of such waste occurs on properties under the same

2071 ownership or control. These regulations shall not apply to the disposal of solid waste from a single family
2072 or household on property where such waste is generated.

2073 (B) The regulations governing solid waste landfills shall, at a minimum, contain the following
2074 requirements:

2075 (1) the submission by the permit applicant of the following documents:

2076 (a) a comprehensive engineering report that describes, at a minimum, existing site conditions and
2077 construction plans;

2078 (b) a quality assurance and quality control report;

2079 (c) a hydrogeologic report and water quality and air quality monitoring plans;

2080 (d) a contingency plan describing the action to be taken in response to contingencies which may
2081 occur during construction and operation of the landfill;

2082 (e) an operational plan describing how the facility will meet all applicable regulatory
2083 requirements;

2084 (f) the maximum volume of solid waste the facility is capable of receiving over the operational life
2085 of the facility and the maximum rate at which the facility will receive that waste; ~~and~~

2086 (g) run-on and run-off controls; and

2087 (h) upon closure, the owner or operator record in the clerk's office or Register of Deeds Office, in
2088 the county in which the site is located, a survey plat indicating the location and dimensions of landfill
2089 cells or other solid waste disposal units with respect to permanently surveyed benchmarks.

2090 (g) a landscape plan;

2091 (2) locational criteria. Solid waste landfills, except those that accept only wood waste or yard
2092 trimmings, or those that are short term structural fills, shall not be located within one thousand feet of an
2093 residence, hospital, church, daycare, or publicly-owned recreational park areas. However, the department
2094 may~~shall~~ grant exemptions from such criteria upon a demonstration by the permit applicant of
2095 circumstances which warrant an exemption;

2096 (3) landfill construction requirements;

2097 (4) facility design and operational requirements including, but not limited to, access controls, cover
2098 requirements, gas control, leachate control, exclusion of hazardous wastes, liner requirements, litter
2099 control, groundwater and surface water monitoring, and air quality monitoring;

2100 (5) closure and postclosure requirements;

2101 (6) financial responsibility requirements; and

2102 (7) corrective action requirements.

2103 HISTORY: 1991 Act No. 63, Section 1.

2104 SECTION 44-96-325. Commercial industrial solid waste landfill; location.

2105 A commercial industrial solid waste landfill or an expansion permitted after the effective date of this
2106 section shall not be located within one thousand feet of a residence, hospital, church, or publicly-owned
2107 recreational park areas. For the purpose of this section only, the term "commercial industrial solid waste
2108 landfill" means an industrial solid waste landfill which accepts industrial solid waste from more than one
2109 generator of industrial solid waste.

2110 HISTORY: 1997 Act No. 100, Section 6.

2111 SECTION 44-96-330. Minimum requirements for new and existing municipal solid waste landfills.

2112 (A) In addition to the requirements imposed by this article, the regulations promulgated by the
2113 department shall, at a minimum, require the following for new and existing municipal solid waste
2114 landfills:

2115 (1) controls to detect and prevent the disposal of hazardous waste, nonhazardous bulk liquids, and
2116 nonhazardous liquids in containers, other than household wastes. Such controls shall include random
2117 inspections of incoming loads, inspection of suspicious loads, records of inspections, training of facility
2118

2122 personnel to recognize illegal materials, and procedures for notifying the proper authorities if any
2123 regulated hazardous ~~waters~~wastes are found;

2124 (2) daily cover to control disease vectors, fires, odors, blowing litter, and scavenging;

2125 (3) landfill gas monitoring and controls to minimize the buildup of explosive gases beneath, around,
2126 or in facility structures excluding gas control or recovery components;

2127 (4) access controls to protect human health and safety and the environment, to prevent unauthorized
2128 vehicular traffic, and to prevent illegal dumping of wastes;

2129 (5) run-on and run-off controls;

2130 (6) landfill closure requirements that:

2131 (a) minimize the need for further maintenance;

2132 (b) ensure that no adverse effect will be caused from postclosure releases to the groundwater,
2133 surface water, or atmosphere.~~, and~~

2134 ~~(c) upon issuance of a permit, require the owner or operator to record in the clerk's office or
2135 Register of Deeds Office, in the county in which the site is located, a survey plat indicating the location
2136 and dimensions of landfill cells or other solid waste disposal units with respect to permanently surveyed
2137 benchmarks. Upon recordation, the owner or operator must submit to the department a copy of the
2138 recorded document;~~

2139 (7) closure and postclosure care plans which identify for each facility the steps necessary to ensure
2140 closure and postclosure care, time estimates, modifications to monitoring and collection systems, final
2141 cover, and cost estimates. The postclosure care period shall be determined by results from the monitoring
2142 of the landfill, including leachate quality and quantity and methane gas generation or some alternative;

2143 (8) financial responsibility for closure and postclosure care;

2144 (9) groundwater monitoring; and

2145 (10) corrective action requirements.

2146 (B) The regulations promulgated pursuant to this article shall require, at a minimum, for each new
2147 municipal solid waste landfill and lateral expansion to existing municipal solid waste landfills the
2148 following:

2149 (1) a single composite liner, natural or manmade materials, or both, or in situ soil, or a combination
2150 of both, capable of preventing the migration of wastes out of the landfill to the aquifer or surface water
2151 during the active life of the facility and during the required postclosure period and ensuring that leachate
2152 does not contaminate the aquifer or surface water during the active life of the facility and during the
2153 required postclosure period;

2154 (2) leachate collection and removal systems;

2155 (3) a construction quality assurance plan specifying the materials to be used in liner construction, the
2156 construction techniques, the engineering plans, and the installation test procedures; and

2157 (4) landfills, at a minimum, shall not be located in the following locations:

2158 (a) within the one hundred-year flood plain unless it can be demonstrated by the owner or operator
2159 that engineering measures have been incorporated into the landfill design to ensure the landfill will not
2160 restrict the flow of the one hundred-year base flood, reduce the temporary water shortage capacity of the
2161 flood plain, or result in the washout of solid waste so as to pose a hazard to human health or the
2162 environment;

2163 (b) within two hundred feet of a fault that has had displacement in Holocene time;

2164 (c) within a seismic impact zone or other unstable areas unless it can be demonstrated by the
2165 owner or operator that engineering measures have been incorporated into the landfill design to ensure the
2166 structural stability of the landfill capable of protecting human health and safety and the environment; and

2167 (d) within proximity of airports or wetlands to be determined by the department by regulation.

2168 HISTORY: 1991 Act No. 63, Section 1; 1997 Act No. 34, Section 1.

2169
2170
2171 **SECTION 44-96-340.** Solid waste incinerators.

2172 (A) No solid waste incinerator with a daily capacity in excess of six hundred tons may be permitted
2173 within the State, nor may any solid waste incinerator with a daily capacity in excess of one hundred tons
2174 be permitted to be sited within three miles of another such facility.

2175 (B) Not later than eighteen months after this article is effective, the department shall promulgate, in
2176 addition to regulations generally applicable to all solid waste management facilities, regulations
2177 governing the siting, design, construction, operation, closure, and postclosure activities of all solid waste
2178 incinerators, other than facilities specifically regulated under other provisions of this article or other
2179 applicable provisions of state law. The department may, by regulation, exempt certain facilities from all
2180 or part of the requirements of this section.

2181 (C) The regulations governing solid waste incinerators shall, at a minimum, contain the following
2182 requirements:

2183 (1) the submission by the permit applicant of the following documents:

2184 (a) an engineering report which must, at a minimum, contain a description of the facility, the
2185 process and equipment to be used, the proposed service area, the types and quantities of wastes to be
2186 treated, and storage of waste;

2187 (b) engineering plans and specifications which must, at a minimum, describe the process
2188 equipment specifications, instrumentation and control diagrams, and performance specifications for all
2189 major equipment and control centers;

2190 (c) a personnel training program;

2191 (d) an ash management plan including, at a minimum, an identification of the facility approved by
2192 the department that will receive the residue and a certification that the facility shall have adequate
2193 capacity to handle such residue;

2194 (e) ~~an air quality monitoring plan;~~

2195 (f) a description of the manner in which waste waters, if any, from the facility will be managed;

2196 (g) a quality assurance and quality control report;

2197 (h) a contingency plan describing a technically and financially feasible course of action to be
2198 taken in response to contingencies which may occur during construction and operation of the facility;

2199 (i) an operation plan describing how the facility will meet all applicable regulatory requirements;

2200 (j) a draft operation and maintenance manual; and

2201 (k) a closure plan;

2202 (2) locational criteria; provided, however, that municipal solid waste incinerators shall not be located
2203 within one thousand feet of a residence, hospital, church, daycare or publicly-owned recreational park
2204 area; and provided further that the department ~~shall~~may grant exemptions from such criteria upon a
2205 demonstration by the permit applicant of circumstances which warrant an exemption;

2206 (3) facility design and operational requirements including, but not limited to, access controls,
2207 recordkeeping and reporting requirements, receipt and handling of solid waste, process changes,
2208 emergency preparedness, and guidelines for identifying items or materials that should be removed prior to
2209 incineration;

2210 (4) ~~air and~~water quality monitoring requirements;

2211 (5) closure and postclosure requirements;

2212 (6) financial responsibility requirements;

2213 (7) personnel training requirements;

2214 (8) ash residue requirements including, but not limited to, testing requirements and procedures, the
2215 contents of an ash management plan, handling, storage, reuse or recycling, transportation, and disposal of
2216 the ash; and

2217 (9) corrective action requirements.

2218
2219 HISTORY: 1991 Act No. 63, Section 1.

2220
2221 **SECTION 44-96-350. Minimum requirements for the management of municipal solid waste incinerator**
2222 **ash.**

2223 ~~(A) In addition to the requirements imposed by this article, the regulations promulgated by the~~
2224 ~~department must require, at a minimum, that municipal solid waste incinerator ash which is disposed of at~~
2225 ~~a solid waste landfill be disposed of only in the following manner:~~

2226 ~~(1) the unit is located, designed, and operated so as to protect human health and safety and the~~
2227 ~~environment;~~

2228 ~~(2) the unit has a groundwater monitoring system and a leachate collection and removal system; and~~
2229 ~~(3) the unit has a single composite liner or double geomembrane liner designed, operated, and~~
2230 ~~constructed of materials to restrict the migration of any constituent into and through such liner during~~
2231 ~~such period as the unit remains in operation.~~

2232 ~~(B) The department shall prescribe criteria and testing procedures for identifying the properties of~~
2233 ~~municipal solid waste incinerator ash that may result in entry into groundwater or surface water in such~~
2234 ~~manner as may pose a hazard to human health and safety or to the environment. The department shall~~
2235 ~~prescribe such criteria and testing procedures not later than eighteen months after this article is effective.~~
2236 ~~Based on the criteria and testing procedures, the regulations shall permit municipal incinerator ash which~~
2237 ~~does not exhibit any of the properties identified in such criteria to be disposed of in solid waste landfill~~
2238 ~~units or cells meeting the applicable regulatory requirements of this section. If such ash exhibits any of~~
2239 ~~the properties identified in the criteria, the department may require that it be disposed of in a landfill~~
2240 ~~meeting the requirements for hazardous waste disposal.~~

2241 ~~HISTORY: 1991 Act No. 63, Section 1; 2000 Act No. 405, Section 17.~~

2244 SECTION 44-96-360. Solid waste processing facilities.

2245 (A) Not later than eighteen months after this article is effective, the department shall promulgate, in
2246 addition to regulations generally applicable to all solid waste management facilities, regulations
2247 governing the siting, design, construction, operation, closure, and postclosure activities of facilities which
2248 receive solid waste for processing. The department may, by regulation, exempt certain facilities from all
2249 or part of the requirements of this section.

2250 (B) All new processing facilities must comply with the requirements of this section. The department
2251 shall establish a schedule for existing facilities to come into compliance with the requirements of this
2252 section.

2253 (C) The regulations governing solid waste processing facilities shall, at a minimum, contain the
2254 following requirements:

2255 (1) the submission by the permit applicant of the following documents:

2256 (a) an engineering report which must, at a minimum, contain a description of the facility, the
2257 process and equipment to be used, the proposed service area, the types and quantities of waste to be
2258 processed, and a description of existing site conditions;

2259 (b) complete construction plans and specifications;

2260 (c) a design report;

2261 (d) a personnel training program;

2262 (e) an identification of possible air releases and groundwater and surface water discharges;

2263 (f) a waste control plan describing the manner in which waste from the processing activities will
2264 be managed. The plan must, at a minimum, identify the facilities to be approved by the department that
2265 will receive the waste and a certification that such facilities have adequate capacity to manage the waste;

2266 (g) a quality assurance and quality control report;

2267 (h) a contingency plan describing the action to be taken in response to contingencies which could
2268 occur during operation of the facility;

2269 (i) an operation plan describing how the facility will meet all applicable regulatory requirements;

2270 (j) a draft operation and maintenance manual;

2271 (k) a closure plan; and

2272 (l) a description of the restrictions, if any, that the facility places on the materials it receives for
2273 processing and a statement explaining the need for such restrictions;

2274 (2) locational criteria; provided, however, that the department shall grant exemptions from such
2275 criteria upon a demonstration by the permit applicant of circumstances which warrant an exemption;

2276 (3) facility design and operational requirements including, but not limited to, access controls,
2277 reporting and recordkeeping requirements, receipt and handling of solid waste, process changes,
2278 emergency preparedness, and guidelines for identifying items or materials that may not be accepted for
2279 processing;

2280 (4) monitoring requirements~~including, at a minimum, air quality monitoring and analysis,~~
2281 ~~groundwater and surface water quality monitoring and analysis, and product quality testing and analysis;~~

2282 (5) closure and postclosure requirements;

2283 (6) financial responsibility requirements;

2284 (7) personnel training requirements; and

2285 (8) corrective action requirements.

2286 (D) The following conditions apply only to facilities that recycle construction and demolition debris:

2287 (1) Not later than sixty days after the effective date of this sub-Section, all unpermitted facilities
2288 shall register with the department, on a form made available by the department.

2289 (2) Within twelve months from the effective date of this sub-section, a facility that recycles
2290 construction and demolition debris shall submit a complete permit application to the department, or
2291 complete closure in accordance with this Section and regulations promulgated pursuant to this Section.

2292 (3) No later than twenty-four months of the effective date of the sub-section, a facility that recycles
2293 construction and demolition debris shall obtain a permit from the department or complete closure in
2294 accordance with this Section and regulations promulgated pursuant to this Section.

2295 (4) Facilities are exempted from obtaining a permit, provided:

2296 (a) all material accepted at the facility has been segregated from solid waste and sorted by material
2297 type (e.g. wood, plastic, metal) at the point of generation or at a permitted solid waste management
2298 facility;

2299 (b) at least seventy-five percent by weight of each separated material type received during a
2300 calendar year, and remaining onsite from a prior year, is used, reused, recycled, or transferred to a
2301 different site for use, reuse, or recycling; and,

2302 (c) the material is managed in a manner to demonstrate that the recovered material has value, and
2303 stored in such a way that it is protected from theft, degradation, contamination, or other harm.

2304 (5) Facilities that recycle land-clearing debris only, are not required to obtain a permit pursuant to
2305 this section, but are subject to all other applicable provisions of this chapter and regulations promulgated
2306 pursuant to this chapter.

2307 (6) The department shall require each registered facility that recycles construction and demolition
2308 debris to submit by a date to be determined by the department an annual report. The annual report shall at
2309 a minimum include:

2310 (a) the total amount by weight of each separate recovered material type received at the facility
2311 during the calendar year;

2312 (b) the total amount by weight of each recovered material type that remained on site at the close of
2313 the previous year;

2314 (c) the total amount by weight of each recovered material type that is used, reused, recycled or
2315 transferred to another site for use, reuse, or recycling, during the calendar year; along with the locations to
2316 which each of the recovered materials were delivered; and

2317 (d) the amount of solid waste removed during the calendar year and disposed, including the name
2318 and address of the facility where the solid waste was disposed.

2319 (e) Records documenting activities listed in sub-section (D) are maintained for a period of not less
2320 than three years, and be made available upon request by the department.

2321
2322
2323 HISTORY: 1991 Act No. 63, Section 1.

SECTION 44-96-370. Storage and transfer of solid waste.

(A) Not later than eighteen months after this article is effective, the department shall promulgate regulations establishing minimum standards for any storage of solid waste prior to processing or incineration or at or in a transfer station. Such regulations shall require that any spillage or leakage of solid waste be contained on the storage site and that no unpermitted discharges to the environment occur. The department may, by regulation, exempt certain facilities from all or part of the requirements of this section.

(B) Not later than eighteen months after this article is effective, the department shall promulgate regulations governing solid waste transfer facilities. The regulations shall, at a minimum, require the submission by a permit applicant of a plan of operation and shall establish locational criteria, operational requirements, and closure requirements. The department may, by regulation, exempt certain facilities from all or part of the requirements of this section.

HISTORY: 1991 Act No. 63, Section 1.

SECTION 44-96-380. Land application facilities; and composting facilities; ~~construction, demolition, and land clearing debris landfills~~.

~~(A)~~ Not later than eighteen months after this article is effective, the department shall promulgate regulations establishing minimum standards for land application facilities and composting facilities. The regulations shall, at a minimum, establish operational requirements and siting requirements and financial responsibility requirements. The department may, by regulation, exempt certain facilities from all or part of the requirements of this section.

~~(B) Not later than eighteen months after this article is effective, the department shall promulgate regulations establishing minimum standards for construction, demolition, and land clearing debris landfills. The department may, by regulation, exempt certain sites or facilities from all or part of the requirements of this section. The department shall exempt a landfill for the disposal of trees, stumps, wood chips, and yard waste when generation and disposal of such waste occurs on properties under the same ownership or control. The regulation shall, at a minimum, contain the following requirements:~~

- ~~—(1) site selection;~~
- ~~—(2) construction;~~
- ~~—(3) hydrogeologic;~~
- ~~—(4) operation; and~~
- ~~—(5) closure and postclosure.~~

HISTORY: 1991 Act No. 63, Section 1.

SECTION 44-96-390. Approval procedures for special wastes.

(A) For the purposes of this section, "special wastes" is defined as nonresidential or commercial solid wastes, other than regulated hazardous wastes, that are either difficult or dangerous to handle and require unusual management at municipal solid waste landfills, including, but not limited to:

- (1) pesticide wastes;
- (2) liquid wastes and bulk liquid wastes;
- (3) sludges;
- (4) industrial process wastes, defined as wastes generated as a direct or indirect result of the manufacture of a product or the performance of a service, including, but not limited to, spent pickling liquors, cutting oils, chemical catalysts, distillation bottoms, etching acids, equipment cleanings, point sludges, core sands, metallic dust sweepings, asbestos dust, and off-specification, contaminated, or recalled wholesale or retail products. Specifically excluded are uncontaminated packaging materials, uncontaminated machinery components, landscape waste, and construction or demolition debris;
- (5) wastes from a pollution control process;

2375 (6) residue or debris from the cleanup of a spill or release of chemical substances, commercial
2376 products, or wastes listed in items (1) through (5);
2377 (7) soil, water, residue, debris, or articles that are contaminated from the cleanup of a facility or site
2378 formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in
2379 items (1) through (6); and
2380 (8) containers and drums.

2381 (B) A special waste must not be disposed of nor accepted for disposal at a municipal solid waste
2382 landfill without prior written approval by the disposal facility in accordance with department
2383 requirements.

2384 (C) A facility may apply to the department at any time for modifications or additions to the types of
2385 special waste disposed of or methods for disposal.

2386 (D) Not later than six months after this article is effective or the initial receipt of wastes, whichever is
2387 later, the owner or operator of a municipal solid waste landfill shall prepare and submit to the department
2388 a waste analysis plan that addresses, at a minimum, the:

2389 (1) parameters for which each waste will be analyzed and the rationale for the selection of those
2390 parameters;

2391 (2) test methods which will be used to test for those parameters;

2392 (3) sampling methods which will be used to obtain a representative sampling of the special waste to
2393 be analyzed;

2394 (4) frequency with which the initial analysis of the special waste will be reviewed or repeated to
2395 ensure that the analysis is accurate and up to date; and

2396 (5) procedures which will be used to inspect and, if necessary, analyze each special waste received at
2397 the facility to ensure that it matches the identity of the special waste designated on the accompanying
2398 transportation record. At a minimum, the plan must describe the:

2399 (a) procedures which will be used to determine the identity of each special waste managed at the
2400 facility; and

2401 (b) the sampling methods which will be used to obtain a representative sample of the special waste
2402 to be identified, if the identification method includes sampling.

2403 (E) The department shall respond to the analysis plan within ninety days of the date of its receipt by the
2404 department.

2405
2406 HISTORY: 1991 Act No. 63, Section 1.
2407

2408 **SECTION 44-96-400.** Information requirements by department; disclosure of information obtained by
2409 department.

2410 (A) To assist in carrying out its responsibilities under this chapter, the department may require:

2411 (1) the establishment and maintenance of records;

2412 (2) the making of reports;

2413 (3) the taking of samples and the performing of tests or analyses;

2414 (4) the installation, calibration, use, and maintenance of monitoring equipment; or

2415 (5) the providing of such other information as may be reasonably necessary to achieve the purposes
2416 of this chapter.

2417 (B) Information obtained by the department pursuant to this chapter shall be available to the public
2418 unless the department determines such information to be proprietary. The department may make such
2419 determinations where the person submitting the information demonstrates to the satisfaction of the
2420 department that the information, or parts thereof, if made public, would divulge methods, production
2421 rates, processes, or other confidential information entitled to protection.

2422
2423 HISTORY: 1991 Act No. 63, Section 1; 1997 Act No. 131, Section 3.
2424

2425 **SECTION 44-96-410.** Inspections; samples.

2426 For the purpose of enforcing this chapter or any regulations promulgated pursuant to this chapter, an
2427 authorized representative or employee of the department may, upon presentation of appropriate
2428 credentials, at a reasonable time:

2429 (1) enter any facility where materials regulated under authority of this chapter are located~~solid wastes
2430 are managed~~;

2431 (2) inspect and copy any records, reports, information, or test results necessary to carry out the
2432 department's responsibilities under this chapter; or

2433 (3) inspect and obtain samples of any solid wastes from the owner, operator, or agent in charge of the
2434 facility, including samples from any vehicles in which solid wastes are being transported, as well as
2435 samples of any containers or labels. The department shall provide a sample of equal volume or weight to
2436 the owner, operator, or agent in charge upon request. The department also shall provide such person with
2437 a copy of the results of any analyses of such samples.

2438

2439 HISTORY: 1991 Act No. 63, Section 1; 1997 Act No. 131, Section 4.

2440

2441 **SECTION 44-96-420.** Issuance, modification or revocation of orders to prevent violations of chapter.

2442 The department may issue, modify, or revoke any order to prevent a violation of this chapter.

2443

2444 HISTORY: 1991 Act No. 63, Section 1; 1997 Act No. 131, Section 5.

2445

2446 **SECTION 44-96-430.** Hearings.

2447 The department may hold public hearings and compel the attendance of witnesses, conduct studies,
2448 investigations, and research with respect to the operation and maintenance of any ~~solid waste
2449 management~~ facility regulated pursuant to this chapter, and issue, deny, revoke, suspend, or modify
2450 permits or registrations under such conditions as it may prescribe for the operation of solid waste
2451 management facilities. However, no permit or registration shall be revoked without first providing the
2452 permit holder with the opportunity for a hearing.

2453

2454 HISTORY: 1991 Act No. 63, Section 1.

2455

2456 **SECTION 44-96-440.** Unlawful acts.

2457 (A) It shall be unlawful for any person to manage solid wastes in this State without reporting such
2458 activity to the department as required by regulation.

2459 (B) It shall be unlawful for any person to manage solid wastes in this State without complying with the
2460 standards and procedures set forth in such regulations.

2461 (C) No person shall deliver or dispose of solid waste except in accordance with this chapter and
2462 regulations promulgated pursuant to this chapter.

2463 (D) No person shall allow or accept solid waste for disposal on property under their ownership or
2464 control except in accordance with this chapter and regulations promulgated pursuant to this chapter.

2465 (E) It shall be unlawful for any person to fail to comply with this article and any regulations
2466 promulgated pursuant to this article, or to fail to comply with any permit issued under this article, or to
2467 fail to comply with any order issued by the board, ~~commissioner~~director, or department.

2468

2469 HISTORY: 1991 Act No. 63, Section 1.

2470

2471 **SECTION 44-96-450.** Violations; penalties.

2472 (A) Whenever the department finds that a person is in violation of a permit, regulation, standard, or
2473 requirement under this article, the department may issue an order requiring the person to comply with the
2474 permit, regulation, standard, or requirement, or the department may bring civil action for injunctive relief
2475 in the appropriate court, or the department may request that the Attorney General bring civil or criminal
2476 enforcement action under this section. The department also may impose reasonable civil penalties

2477 established by regulation, not to exceed ten thousand dollars for each day of violation, for violations of
2478 the provisions of this article, including any order, permit, regulation, or standard. ~~After exhaustion of
2479 administrative remedies, a person against whom a civil penalty is invoked by the department may appeal
2480 the decision of the department or board to the court of common pleas.~~

2481 (B) A person who ~~wilfully~~willfully violates any provision of this article, or a regulation promulgated
2482 pursuant to this article, is guilty of a misdemeanor and, upon conviction, shall be fined not more than ten
2483 thousand dollars for each day of violation or imprisoned for not more than one year, or both. If the
2484 conviction is for a second or subsequent offense, the punishment shall be a fine not to exceed twenty-five
2485 thousand dollars for each day of violation or imprisonment not to exceed two years, or both. The
2486 provisions of this subsection shall not apply to officials and employees of a local government owning or
2487 operating, or both, a municipal solid waste management facility or to officials and employees of a region,
2488 comprised of local governments, owning or operating, or both, a regional municipal solid waste
2489 management facility.

2490 (C) Each day of noncompliance with an order issued pursuant to this section or noncompliance with a
2491 permit, regulation, standard, or requirement established under this article constitutes a separate offense.
2492

2493 HISTORY: 1991 Act No. 63, Section 1.
2494

2495 **SECTION 44-96-460.** Training of operators of solid waste management facilities.

2496 (A) The department shall establish qualifications for and encourage the development of certification
2497 programs for operators of landfills, coordinators of local recycling programs, and operators of other solid
2498 waste management facilities.

2499 (B) The department shall work with accredited community colleges, vocational technical centers, state
2500 universities, and private institutions in developing educational materials, courses of study, and other such
2501 information to be made available for persons seeking to be certified as operators of solid waste
2502 management facilities.

2503 (C) Two years after this article is effective, no person may perform the duties of an operator of a solid
2504 waste management facility unless he has completed an operator certification course approved by the
2505 department. An owner of a solid waste management facility may not employ any person to perform the
2506 duties of an operator unless such person has completed an approved solid waste management facility
2507 operator certification course.

2508 (D) The department shall adopt regulations to carry out the provisions of this section. The department
2509 may establish by rule classifications for operators to cover the need for differing levels of certification
2510 required to operate various types of solid waste management facilities due to different operating
2511 requirements at such facilities.

2512 (E) For purposes of this section, the term "operator" means any person, including the owner, who is
2513 principally engaged in, or is in charge of, the actual operation, supervision, and maintenance of a solid
2514 waste management facility and includes the person in charge of a shift or period during any part of the
2515 day.

2516 HISTORY: 1991 Act No. 63, Section 1.
2517

2518 **SECTION 44-96-470.** Facility issues negotiation process.

2519 (A) Upon the submission of a permit application to the department for a municipal solid waste disposal
2520 facility, the permit applicant shall within fifteen days of the date of submission of the application
2521 publicize the submission by public notice and in writing as follows:

2522 (1) If the application is for a facility serving no more than one county, the public notice must be
2523 published in a newspaper of general circulation serving the host county, and each ~~local~~
2524 governmentincorporated municipality in the county shall be notified further in writing of the permit
2525 application.

2527 (2) If the application is for a facility serving more than one county, the public notice must be
2528 published in a newspaper of general circulation serving each affected county, and each ~~local~~
2529 government incorporated municipality within such counties shall be notified in writing of the permit
2530 application. For the purpose of this item, "affected county" includes the host county, each county under
2531 contract with the proposed facility, and all counties contiguous to the host county. For the purposes of this
2532 item, "newspaper of general circulation" is a daily newspaper with a circulation of not less than 10,000
2533 and located within 100 miles of the proposed facility.

2534 (3) ~~The public notice must be prominently displayed in the courthouse of each notified county, and~~

2535 (4) The initial public notice and all other public notices required under this section, at a minimum,
2536 shall contain:

- 2537 (a) the name and address of the applicant;
- 2538 (b) the nature of the proposed facility;
- 2539 (c) a description of the proposed site;
- 2540 (d) a locational map showing the proposed site; and
- 2541 (e) such other information as is necessary to fully inform the public to be determined by
2542 regulations to be promulgated by the department.

2543 (B) The department shall review the application and supporting data and make a determination whether
2544 the permit application is administratively complete. The department shall notify, in writing, the applicant,
2545 the host local government, if different from the applicant, and any other person who has made a written
2546 request for notification to the department of this determination.

2547 (C) Upon receipt from the department of notice that the permit application is administratively
2548 complete, the host local government for the proposed site, within forty-five days of receipt of such
2549 notification from the department, as outlined in items (1), (2), (3), and (4) of subsection (A), shall
2550 advertise and hold a public meeting to inform affected residents and landowners in the area of the
2551 proposed site and of the opportunity to engage in a facility issues negotiation process.

2552 (D) Following notification that the permit application is administratively complete, the department
2553 shall continue to review the applicant's permit application, but the department shall not take any action
2554 with respect to permit issuance or denial until such time as the local notification and negotiation processes
2555 described in this section have been exhausted.

2556 (E) The department shall not be a party to the negotiation process described in this section, nor shall
2557 technical environmental issues which are required by law and by regulation to be addressed in the
2558 permitting process be considered negotiable items by parties to the negotiation process.

2559 (F) ~~Within~~For a period of thirty days following a public meeting held in accordance with subsection
2560 (C), affected persons may petition the host local government to initiate the facility issues negotiation
2561 process. At the close of the thirty-day period, thea facility issues negotiation process shall be initiated by
2562 the host local government upon receipt of a written petition by at least twenty-five affected persons, at
2563 least twenty of whom shall be registered voters of or landowners in the host jurisdiction. Multiple
2564 petitions may be consolidated into a single negotiating process. For the purposes of this subsection, the
2565 term "affected person" means a registered voter of the host local government or of a county contiguous to
2566 such host local government or a landowner within the jurisdiction of the host local government. To be
2567 valid, signatures shall be accompanied by the following information:

- 2568 (1) for a registered voter: home address and voter registration number; and
- 2569 (2) for a landowner: home or business address and the county in which the property lies, together
2570 with its tax map number.

2571 (G) Within fifteen days following the close of the thirty-day period in subsection (F)~~receipt of such~~
2572 ~~written petition~~, the host local government shall validate the petition to ensure that the petitioners meet
2573 the requirements of this section.

2574 (H) ~~Upon~~Within fifteen days following the validation of the written petition, the host local government
2575 shall:

- 2576 (1) set a date, time, and location for a petitioner's meeting to choose a citizens' facility issues
2577 committee to be held within fifteen days following the validation of the written petition;

2578 (2) set and a date, time, and location for a meeting with the citizens' facility issues committee, the
2579 host local government, and the permit applicant not later than thirty days following the petitioner's
2580 meeting in item (1) validation of such written petition to negotiate;

2581 (23) not less than ten days prior to the first negotiation meeting scheduled in accordance with item
2582 (2), notify the petitioners by publication as provided in items (1), (2), (3), and (4) of subsection (A) that
2583 the facility issues negotiation process is being initiated and the date, time, and location of the first
2584 negotiation meeting; and

2585 (34) not less than ten days prior to the first negotiation meeting scheduled in accordance with item
2586 (2), notify the permit applicant, if different from the host local government, and the department that the
2587 facility issues negotiation process is being initiated and the date, time, and location of the first negotiation
2588 meeting.

2589 (I) The host local government shall organize the petitioners meeting scheduled in accordance with item
2590 (1) of subsection (H). The majority of the petitioning persons in attendance shall select up to ten
2591 members, at least eighty percent of whom shall be registered voters or landowners in the host local
2592 government, to serve on a citizens" facility issues committee to represent the petitioning persons in the
2593 negotiation process. The membership of the citizens" facility issues committee shall be chosen within
2594 fifteen days following the validation of such written petition pursuant to this section.

2595 (J) The negotiation process shall be overseen by a facilitator named by the host local government, after
2596 consultation with the citizens" facility issues committee, from a list provided by the department. The
2597 function of the facilitator shall be to assist the petitioners, the host local government, and the permit
2598 applicant, if different from the host local government, through the negotiation process. The cost, if any, of
2599 the facilitator shall be borne by the permit applicant.

2600 (K) Beginning with the date of the first negotiation meeting called in accordance with subsection (H),
2601 there shall be no fewer than three negotiation meetings within forty-five days unless waived by consent of
2602 the applicant and a majority of the facility issues committee. Such negotiation meetings shall be presided
2603 over by the facilitator named in subsection (J) and shall be for the purpose of assisting the petitioners, the
2604 host local government, and the permit applicant, if different from the host local government, to engage in
2605 nonbinding negotiation.

2606 (L) Minutes of each meeting and a record of the negotiation process shall be kept by the host local
2607 government.

2608 (M) All issues except those which apply to environmental permit conditions are negotiable.
2609 Environmental permit conditions are not negotiable. Issues which may be negotiated include, but are not
2610 limited to:

- 2611 (1) operational issues, such as hours of operation;
- 2612 (2) recycling efforts that may be implemented;
- 2613 (3) protection of property values;
- 2614 (4) traffic routing and road maintenance; and
- 2615 (5) establishment of local advisory committees.

2616 (N) At the end of the forty-five-day period following the first negotiation meeting, the facilitator shall
2617 publish a notice of the results, if any, of the negotiation process in the same manner as provided in items
2618 (1), (2), (3), and (4) of subsection (A) and shall include the date, time, and place as determined by the
2619 facilitator of a public meeting, to be held within ten days after publication, with the permit applicant, host
2620 local government, and facility issues committee, at which the input of persons not represented by the
2621 citizens" facility issues committee may be received.

2622 (O) Within ten days following the public meeting in subsection (N), ~~t~~The negotiated concessions
2623 reached by agreement of all the negotiating parties shall be reduced to writing and executed by the
2624 chairman of the citizens' facility issues committee and the chief elected official of the host local
2625 government and must be certified by resolution of the host local government at the next scheduled
2626 meeting of council or board of the host local government.

2627 (P) If the negotiating parties fail to reach consensus on an issue, the permit applicant may proceed to
2628 seek a permit from the department. The facilitator shall notify the department in writing that the
2629 negotiating parties have failed to reach consensus and the nature of the disputed issues.

2630 (Q) If the negotiating parties reach consensus on negotiated issues, the permit applicant may proceed to
2631 seek a permit from the department. Within fourteen days of certification of the facilitator's final report of
2632 resolution of the host local government pursuant to subsection (O), the facility shall provide to the
2633 department a summary of the results of the negotiations. The facilitator shall notify the department in
2634 writing that the negotiating parties have reached consensus.

2635 (R) Negotiated concessions shall not be construed as environmental permit conditions. However, they
2636 may be enforced by any negotiating party in a civil proceeding.

2637 (S) Upon receipt of a written notification from the facilitator that the parties to negotiation have
2638 reached consensus or have failed to reach consensus on negotiated issues, and upon written notification
2639 from the permit applicant that he wishes to pursue permitting of the solid waste disposal facility for which
2640 an application has been filed, the department shall proceed to process the permit.

2641
2642 HISTORY: 1991 Act No. 63, Section 1; 2000 Act No. 405, Section 18.

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